

97-84031-4

U.S. Congress. House.

Federal Motion Picture  
Commission

Washington

1916

97-84031-4

MASTER NEGATIVE #

COLUMBIA UNIVERSITY LIBRARIES  
PRESERVATION DIVISION

## BIBLIOGRAPHIC MICROFORM TARGET

ORIGINAL MATERIAL AS FILMED - EXISTING BIBLIOGRAPHIC RECORD

308	
Z	
Box 63	U. S. Congress. House. Committee on education.
	Federal motion picture commission. Briefs and statements filed with the Committee on education, House of representatives, Sixty-fourth Congress, first session, on H. R. 456, to create a new division of the Bureau of education to be known as the Federal motion picture commission, and defining its powers and duties. Washington, Govt. print. off., 1916.
	65 p. 23 <sup>1</sup> / <sub>2</sub> cm.
	1. Moving-pictures. I. Title.
	16-26181
Library of Congress	PN1994.A2 1916 a 24 D

RESTRICTIONS ON USE: Reproductions may not be made without permission from Columbia University Libraries.

## TECHNICAL MICROFORM DATA

FILM SIZE: 35 mmREDUCTION RATIO: 10:1IMAGE PLACEMENT: IA (IIA) IB IIBDATE FILMED: 2-27-97INITIALS: PBTRACKING #: 21501

FILMED BY PRESERVATION RESOURCES, BETHLEHEM, PA.

## BIBLIOGRAPHIC IRREGULARITIES

MAIN ENTRY: U.S. Congress. House. ....

Federal Motion Picture Commission .....

### Bibliographic Irregularities in the Original Document:

List all volumes and pages affected; include name of institution if filming borrowed text.

\_\_\_\_\_ Page(s) missing/not available: \_\_\_\_\_

\_\_\_\_\_ Volume(s) missing/not available: \_\_\_\_\_

☒ Illegible and/or damaged page(s): pages 1 and 2 \_\_\_\_\_

\_\_\_\_\_ Page(s) or volume(s) misnumbered: \_\_\_\_\_

\_\_\_\_\_ Bound out of sequence: \_\_\_\_\_

\_\_\_\_\_ Page(s) or volume(s) filmed from copy borrowed from: \_\_\_\_\_

\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_ Inserted material: \_\_\_\_\_

TRACKING#: MSH21501 \_\_\_\_\_

Gift of the President

308

Z

Box 63

# FEDERAL MOTION PICTURE COMMISSION

## BRIEFS AND STATEMENTS

FILED WITH THE

## COMMITTEE ON EDUCATION

HOUSE OF REPRESENTATIVES

SIXTY-FOURTH CONGRESS

FIRST SESSION

ON

### H. R. 456

TO CREATE A NEW DIVISION OF THE BUREAU OF EDUCATION  
TO BE KNOWN AS THE FEDERAL MOTION PICTURE COM-  
MISSION, AND DEFINING ITS POWERS AND DUTIES



WASHINGTON  
GOVERNMENT PRINTING OFFICE

1916



## FEDERAL MOTION PICTURE COMMISSION.

STATEMENT OF MESSRS. MEYERS & CLARK, ATTORNEYS FOR  
PARAMOUNT PICTURES CORPORATION; E. J. LUDVIGH, RALPH  
A. KOHN, ATTORNEYS FOR FAMOUS PLAYERS FILM CO.; ARTHUR  
S. FRIEND, ATTORNEY FOR JESSE L. LASKY FEATURE PLAY  
CO. (INC.); AND MORITZ ROSENTHAL, ATTORNEY FOR WORLD  
FILM CORPORATION AND EQUITABLE MOTION PICTURES COR-  
PORATION.

Hon. D. M. HUGHES,  
Chairman Committee on Education, House of Representatives,  
Washington, D. C.

SIR: The undersigned, representing substantial interests in the motion-pic-  
ture industry, viz, Paramount Pictures Corporation, Famous Players Film Co.,  
Jesse L. Lasky Feature Play Co. (Inc.), World Film Corporation, and Equitable  
Motion Pictures Corporation, submit herewith for your consideration a revision  
of the Smith-Hughes bill (S. 2204, H. R. 456) which, while crude in form, covers  
practical points of great importance to the trade and will, we trust, serve as a  
working basis for a bill to be reported by your committee.

While the idea of censorship of motion pictures is distasteful to our clients,  
as well as to others in the business, our support of the principle of regulation  
embodied in the bill before you is due to our realization of unfavorable condi-  
tions in the industry which can not be corrected by ordinary means nor by  
sporadic and occasional criminal prosecutions, procured by the better elements  
of the business or by individual or organized reformers. The motion-picture  
business, now of vast financial importance, has had a mushroom growth and is  
not yet homogeneous and standardized. Too many persons engaged in the  
business look upon it as a temporary means of getting money instead of a  
permanent business, the continued profit of which is dependent upon the quality  
and character of the productions. They are like miners who quickly exhaust the  
high-grade ore and leave the low grade on the dump. They are get-rich-quick  
artists, looking for a quick "clean-up and a get-away." They find the oppor-  
tunity for such methods in producing and exhibiting sensational productions  
which display scenes of lust and crime.

Unfortunately, the public is not yet discriminating and goes to see both  
bad and good, which are usually to be found upon the weekly program of the  
same theater. Still more unfortunately, the vicious picture brings the larger  
return to exhibitor and producer, because it gets the money of the regular  
customer and the sensation-seeker also. This state of affairs constitutes a  
temptation hard to resist and, in fact, the production of vicious pictures is con-  
stantly increasing just because they are more profitable. If the industry is to  
endure, if decent people are to stay in the business, this cancer must be cut  
out. A Federal regulatory commission should prove a fearless surgeon and  
we therefore favor such a commission.

The motion-picture business has three well defined divisions, production, dis-  
tribution, and exhibition. The producer deals with authors and performers and  
makes the pictures. The distributor contracts with the producer for his product  
and through local offices, known as exchanges, places it in the hands of the  
exhibitor. The exhibitor deals directly with the public. All three divisions  
of the business would be affected adversely by an act providing for Federal  
regulation, which overlooked the practical needs of the business. In order  
that those needs may be served, we urge you to include in any bill which you  
may report provisions as follows:

(1) Local offices for the commission in New York and Los Angeles, so that  
the producers, most of whom operate in those cities or their vicinity, may have  
ready access to the supervising authority and prompt consideration of their  
product.

## COMMITTEE ON EDUCATION.

HOUSE OF REPRESENTATIVES, SIXTY-FOURTH CONGRESS.

DUDLEY M. HUGHES, *Chairman*, Georgia.

WILLIAM W. RUCKER, Missouri.

ROBERT L. DOUGHTON, North Carolina.

JOHN W. ABERCROMBIE, Alabama.

CLAUDIUS U. STONE, Illinois.

JOHN A. KEY, Ohio.

WILLIAM J. SEARS, Florida.

B. C. HILLIARD, Colorado.

CALEB POWERS, Kentucky.

HORACE M. TOWNER, Iowa.

EDMUND PLATT, New York.

SIMEON D. FESS, Ohio.

FREDERICK W. DALLINGER, Massachusetts.

S. TAYLOR NORTH, Pennsylvania.

ROBERT M. McCRACKEN, Idaho.

JAMES L. FORT, *Clerk*.

(2) Authority to the commissioner or deputy in charge of a local office to grant or refuse a license. This is necessary to procure the prompt action on applications, which the producer requires in order to meet his engagements with the distributor, covering a constant and frequent supply of pictures, and which the distributor requires in order to enable the exchanges to supply to the exhibitors the daily and weekly changes covered by their contracts. Delay would certainly be costly and might be fatal to the organized business.

(3) A provision for condemnation of specific parts of a film, which, when the same are eliminated, shall become entitled to license.

(4) A provision for review by the commission when the examiner refuses a license. As the determination of the question whether a film is entitled to license is not based upon exact standards but is a matter of opinion only, it should not be possible for one man, in his discretion, to destroy the large investment represented by a modern photoplay.

(5) A provision for an appeal to the Court of Appeals of the District of Columbia from a refusal to license. As the determination by the commission would be really arbitrary because of the absence of legal tests or recognized standards, it is of the greatest importance that the commission should not be vested with supreme power. Where great property interests are involved the citizen should always be afforded an opportunity for relief from the court, if he feels that he has been treated unjustly.

(6) A provision permitting the producer to transport films prior to application for license. The producer should be free to transport a film from its place of manufacture to his home office or other place where it will be cut and trimmed and otherwise prepared for exhibition.

(7) A provision for substantial salaries for the commissioners, so that the President can secure the services of capable men, who will accept office as a career and not for the purpose of carrying out preconceived and perhaps prejudiced ideas as to reform of the film industry.

(8) An exemption from the operation of the act of (a) films exhibited to the public prior to its enactment, and (b) films which do not contain any dramatic or fictional element, such as pictures of current events, commonly known as news pictures and topical reviews, and pictures of places and peoples, geographical in nature, and commonly known as travel pictures.

(9) A provision granting discretion to the commission to issue a permit under which films may be exhibited pending revocation of the permit and application for license. Such a provision would enable the commission to adjust the burden of temporarily accumulated applications by granting permits (in effect, temporary licenses) to producers whose history and reputation entitle them to a presumption of complying with the law.

As we are moved by the sincere purpose of cooperating with your committee in procuring a draft of an act which should prove effective and workable and at the same time fair to the decent people in the motion-picture business, we respectfully request that when a bill is ready for action by the committee a copy shall be sent to us, and we shall be given an opportunity to appear before the committee and make such suggestions and criticisms as may occur to us.

MEYERS & CLARK,  
Attorneys for Paramount Picture Corporation.  
E. J. LUDVIG,  
RALPH A. KOHN,  
Attorneys for Famous Players Film Co.  
ARTHUR S. FRIEND,  
Attorneys for Jesse L. Laskey Feature Play Co. (Inc.).  
MORITZ ROSENTHAL,  
Attorney for World Film Corporation  
and Equitable Motion Pictures Corporation.

New York, January 25, 1916.

Bill submitted with foregoing brief:

A BILL To create a new division of the Bureau of Education, to be known as the Federal motion picture commission, and defining its powers and duties.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a Federal motion picture commission be, and the same is hereby, created, to be composed of five commissioners appointed by the President, with the approval of the Senate. One of

the commission shall be designated as chairman. The chairman and at least one other member of the commission shall be attorneys or counselors at law duly admitted to practice in the State in which he resides. The commission shall be a division of the Bureau of Education in the Department of the Interior.

Sec. 2. That each commissioner shall hold office for six years, except that when the commission is first constituted two commissioners shall be appointed for two years, two for four years, and one for six years. Each commissioner shall thereafter be appointed for a full term of six years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The salary of the chairman shall be \$8,000 a year and of each other commissioner \$7,500 a year.

Sec. 3. That the commission may appoint deputy commissioners and other assistants and fix the compensation of each. Actual and necessary traveling expenses shall be allowed to those who travel on the business of the commission. The commission shall be provided with necessary office furniture, stationery, supplies, projecting machines, and appliances necessary for inspection of films: *Provided, however,* That the entire cost of the commission, including salaries and all other expenses, shall not exceed \$100,000 a year.

Sec. 4. That the commission shall establish and maintain a bureau or sub-office at the city of New York, in the State of New York, and at the city of Los Angeles, in the State of California. Each bureau shall be in charge of one of the commissioners, and films may be submitted at such bureaus or at the office of the commission in the city of Washington. The action of the commissioner in charge of such bureau shall be deemed to be the action of the commission, in so far as the granting or refusing licenses may be concerned.

Sec. 5. Before any film shall be submitted to the commission or to any bureau an application shall be made in writing on a form to be provided by the commission which shall set forth the name of the film to be submitted, the name of the producer, the name of the party applying for the license, and the number of linear feet contained in the film, and a short statement of the subject matter thereof. Within one day of the filing of such application with the commission or any bureau, the commission or the bureau shall set a time for the submission of the film, which shall be in no event more than three days after the date of the filing of the application. At least one of the commissioners or one of the deputy commissioners shall attend upon and be present throughout the exhibition of each film submitted. The party submitting may present such evidence in addition to the film as may be necessary or proper to make clear the purpose and intent of the film. All oral evidence shall be recorded by the commission.

The license applied for shall be granted or refused within one day after the hearing.

Sec. 6. Should any commissioner or any deputy to whom the commission may delegate the duty of considering an application refuse to license any film, the applicant may file with the commission in the city of Washington an application for review, and within five days of the filing of such application and the submission of the film the commission shall review the same and the granting or refusal of the license shall be determined by the concurring votes of at least three of the commissioners after each of those voting shall have attended throughout the exhibition of the film and shall have heard and considered such evidence as the applicant for review has seen fit to offer.

Sec. 7. Should a license be refused after review, as in section six last above provided, the applicant may, at any time within ninety days from the date of such refusal, appeal from the ruling of the commission to the Court of Appeals of the District of Columbia. Such appeal shall be perfected in the following manner, that is to say, a petition verified by the applicant shall be filed in the office of the clerk of the said court, setting forth a description of the film and a complete record of the original application for license, the action of the commissioner or deputy, and the action of the commission on application for review. The court shall, on the hearing of such appeal, attend throughout the exhibition of the film and receive such evidence as may be offered by the applicant and by the commission.

Sec. 8. That the commission shall license every film submitted to it and intended for entrance into interstate commerce unless such film or any part thereof is obscene, indecent, immoral, inhuman, or is a reproduction of an actual bull fight or prize fight, or is of such a character that its exhibition would tend to corrupt morals or incite to crime. In the event that the commission shall not license any film for any of the reasons above set forth it shall furnish

to the person, firm, or corporation which has submitted it a written report setting forth in detail the reasons for its refusal and, in respect to such refusals as are made because any part or parts of the film is or are obscene, indecent, immoral, inhuman, or is a reproduction of an actual bull fight or prize fight, or is of such a character that its exhibition would tend to corrupt morals or incite to crime, the report shall specifically describe such part or parts, and upon the applicant's filing in the office in which the application for license is filed a statement under oath that the part or parts described have been eliminated from the film, and that the corresponding parts of the negative from which the film submitted was made have been destroyed, a license shall be issued forthwith. The commission may at any time by affirmative vote of not less than two of the commissioners issue a permit for the entrance into interstate commerce of any film to be submitted to it, which permit, however, may be revoked by like vote of the commission on 10 days' notice to the applicant to whom the permit was originally granted. Thereupon the film may be submitted to the commission for license, as though no permit had ever been granted or revoked.

Sec. 9. That when any film has been approved the commission shall issue a license to the film producer or importer in the form adopted by the commission. The license shall describe the film and shall bear a serial number, and shall state its title, the day upon which it was approved by the commission, and the number of linear feet contained therein.

Sec. 10. That no person, and so forth, producer or importer, shall carry or transport or cause to be carried or transported any film from or into any State, Territory, or possession of the United States, unless such film has been licensed by the commission or unless a permit has been granted in respect to such film: *Provided*, That this section shall not be construed as prohibiting the carriage or transportation by the producer of the producer's own film from or into any State, Territory, or possession of the United States for purposes other than public exhibition.

Sec. 11. That no motion-picture film which has not been licensed, or unless a permit has been granted in respect to such film by the commission, shall be exhibited in any place of amusement or pay or in connection with any business in the District of Columbia, or in any of the Territories of the United States, or in any place under the jurisdiction of the United States.

Sec. 12. That a fee of \$2 shall be charged for each thousand feet of film or a fractional part thereof. Any change or alteration in the film after license, except the elimination of a part, shall be a violation of this Act, and shall also void the license. The fee charge shall be in respect to a single copy and a license or permit having been granted additional copies without limitation as to the number shall be covered by the license or permit.

Sec. 13. That the commission shall annually, on or before the first day of January in each year, submit a written report to the United States Commissioner of Education. In this report, and from time to time by other means, the commission may recommend films particularly suitable for children, and may make suggestions regarding the recreational and educational uses of motion pictures.

Sec. 14. That any violation of this act shall be punished by a fine of not more than \$1,000, or imprisonment for not more than one year, or both, and the films unlawfully transported, exhibited, or changed shall be confiscated.

Sec. 15. That the fees received by the commission shall be paid monthly into the Treasury of the United States.

Sec. 16. That upon the expiration of six months from the date of approval of this act, and from time to time thereafter, as circumstances warrant, the commission shall reduce the license fee to such a sum as will produce no larger income than is necessary to pay the cost of the commission including salaries and all other expenses.

Sec. 17. That this act shall take effect immediately, except sections ten and eleven, which sections shall take effect three months after date of the approval of this act; but nothing in this act shall apply to films which shall have been exhibited to the public prior to its approval.

**BRIEF FOR HUGHES BILL SUBMITTED BY REV. JOHN MACMURRAY, PASTOR UNION METHODIST EPISCOPAL CHURCH, OF WASHINGTON, D. C.**

Concerning paternalism or parentalism, to which objection is raised as a feature of this bill, may I say, anomalous as it may seem, that a large degree

of paternalism is absolutely imperative in a democracy. Where every man's voice must be heard and heeded in the decision of important matters, it is essential that that voice be intelligently raised for the commonweal or Commonwealth, as well as for the benefit of its owner; the aim being the "greatest good for the greatest number."

It must be a thoroughly trained voice.

The function of the parent is to bring children into the world and train them for the State.

Where parents are too weak, or not wise enough or unwilling to train children thus the State must take the place of the parent. Sometimes the intelligent and capable prefer that the State do this work for their children, as better equipped for the work. Consequently the State has in a large measure taken the place of the parent in training the child and that with the consent of the very large majority of American citizens. What one State has done or is doing, a number of other States, agreeing and consenting, may form a group of States to do—United States. So now the State or a group of States provides the conditions by which children are to be brought into the world; designates who shall be their parent, how they shall be born; then, what the child shall eat and drink and how it shall eat and drink; what kind of air it shall breathe; what kind of clothes it shall wear; who shall nurse, train, and teach it; what it shall learn and what it shall not learn and when it shall learn it; when it shall play and what and where; when the child shall go to sleep and when it shall arise; provides for conditions of sleep; designates the route by which it shall go to and return from school; takes it from the parent and directs its activities, and may claim its services—the State may under certain circumstances take it away from the care of the parent completely; designates its mental food and its moral surroundings and everything that has to do with its moral welfare and development. When the child grows to manhood that care still continues.

The State tells me what I shall eat, how I shall eat it; what I shall drink and how and when I shall drink it; what kind of air I shall breathe; what I shall wear and how I shall wear it; what kind of house and home I shall have; tells me what I may do in the way of occupation and what I may not; what shall be my amusements and what shall not; takes care of my health; tells me how I shall ride and even what I shall pay for transportation. The State tells me what kind of books and papers I shall read; what kind of pictures I shall look at and what dramatic performances I shall witness; how I shall marry and whom; how I shall be born, live, die, and be buried.

In fact the State, as a parent, mixes itself into almost all of my personal affairs, and I have become so accustomed to it that I do not demur or resent it. For whatever personal liberty and personal rights I have, and they are very great, I am willing to surrender in most cases because I receive more than the equivalent for what I give in the benefits accruing to me from the mutual voluntary surrender of the personal liberty and rights of others. I have no right to expect to benefit from the surrender of others unless I surrender myself to the benefits of the State. If I am not willing to abide by and be obedient to the laws and regulations of the family government for the good of all the family and let my parents direct, then I can kick and register my kick, or I am at liberty to run away and betake myself as far as possible from these obnoxious family laws and rule. Any American citizen in good standing is free to go to any spot on this globe and be freely welcomed except by those governments where, under the circumstances, he is least likely to go.

He is free to go to Mars if he can find safe transportation. To be too insistent on personal rights and personal liberty at the expense of others is anarchy, and anarchy is not consistent with itself.

Therefore the State or a group of States may and does say: No influence shall be allowed to neutralize the effects of our public training and instruction; whatever it is wise for the child to receive we shall give; what is not wise we shall withhold.

The State teaches all useful knowledge—arts and sciences. What it does not teach may be regarded as neither useful nor necessary but sometimes harmful. The State does not teach burglary, forgery, gun toting, licentiousness, looseness of necessary marriage bonds, or anything else classed as crimes, incentives to crime, nor resultant in crimes against the laws of common decency and proper human development. What the parent State refuses to teach in morality it should not permit outsiders to teach, and thus it regulates or refuses to allow

those things which teach lessons subversive of or contrary to the purpose of the State.

Those who oppose paternalism are benefited by and acquiesce in paternalism in all things except when it interferes where they are directly interested, but since they in each case must of necessity be in the minority, and since the "greatest good for the greatest number" must be the thing sought for, they must eventually give way to the wish of the majority.

There can be no doubt but that if this bill passes Congress and becomes the law of the land, this seeming paternal feature will be consented to by the mass of the American people, for their silence and acquiescence will be equivalent to consent when they possess right at hand the power to reject if they should choose to do so. Gentlemen of the committee, you know and I know that the majority of the common-sense American people will accept your decision and the action of Congress in favor of the regulation asked for in this bill with equanimity. It is this thought which comforts those who favor this bill.

Now, there is, however, a common ground on which our motion-picture friends and ourselves may stand, for those persons are surely our friends who contribute to our happiness and enlightenment.

That common ground is the censor-not censorship. I feel, after all, that our friends who have done so much for our pleasure and instruction in furnishing these motion pictures do not object to censorship, as it is called. They are not afraid of that. They would be the very first to disown such a fear. They really covet censorship. They have it now in a limited and uncertain manner. But they very reasonably fear the censors with the almost autocratic powers which they will possess—the possible favoritism, partisanship, and corruption—the big stick which may be held over their business with its over \$350,000,000 annual income.

And those who have had any experience with many high-priced commissions of the Government feel that this fear is not altogether groundless.

Let them feel quite sure of the fair and square deal for all, that favoritism, partisanship, and possible injustice shall not prevail, and the really strongest objection to this bill must be removed. The higher priced the commission the greater will be the temptation to fill that commission with men who have no other qualifications than political ones, and what one man with appointing power is strong enough to withstand the pressure which will be brought to bear. This is the feature of the bill which must receive fullest attention.

Mr. Chairman, the committee of which I am the chairman is making an investigation of the character of the pictures now being shown in the nearly 80 motion-picture theaters in the District of Columbia, and would be pleased to have the privilege of submitting the results of this definite investigation to you and the committee for your consideration.

THE LEGISLATIVE COMMITTEE OF THE WASHINGTON  
METHODIST MINISTERS' ASSOCIATION.

**STATEMENT OF H. F. WORLEY, SUPERINTENDENT OF CITIZENSHIP OF THE CHRISTIAN ENDEAVOR UNION; REPRESENTING ALSO THE UNITED SOCIETY OF CHRISTIAN ENDEAVOR OF THE UNITED STATES.**

Supplementary to my previous statement, I desire to add the following: The question has been raised as to whether I represent the organization of Christian Endeavor in this country, its constituent bodies, and membership. I submit a copy of a resolution passed by the Christian Endeavor Union, District of Columbia, passed on May 3, 1915, instructing me to appear before committees of Congress, etc., in an endeavor to secure a censorship of motion picture films:

At a regular meeting of the Christian Endeavor Union, held in the First Congregational Church, Washington, District of Columbia, Monday evening, May 3, 1915, with a very large attendance of delegates from the various societies, after a full discussion, on motion, the following resolution was adopted unanimously:

Whereas information and complaints have come to us individually and collectively as to a large proportion of motion-picture films of an improper, suggestive, or immoral character now being exhibited; and

Whereas such exhibitions are subversive of the morals, ideals, and good citizenship of our people, and especially of the membership of our organization, which is largely composed of children and young people:

*Be it resolved*, That Mr. H. F. Worley, superintendent of citizenship, of the Christian Endeavor Union, be instructed to interview Maj. Raymond Pullman, the District Commissioners, and to appear before the committees of the House and Senate in an endeavor to secure a stricter supervision or censorship over the exhibition and manufacture of motion-picture films.

A true copy.

HORACE M. GILLMAN, *President*.

I also submit a letter from the Christian Endeavor Union, dated January 13, 1916, which is authorized to be written by a resolution passed by the union:

DISTRICT OF COLUMBIA CHRISTIAN ENDEAVOR UNION,  
Washington, D. C., January 13, 1916.

The CHAIRMAN COMMITTEE ON EDUCATION,  
House of Representatives.

SIR: According to the complaints which have come to our attention personally and officially through our citizenship department, there appears no doubt that the manufacture of motion-picture films should be subjected to the most strict kind of censorship before being exhibited to the public, and we respectfully urge that you favorably report to the House, and endeavor to obtain the passage of, the Hughes-Smith bill during the present session of Congress. Complaints have come to us from the various societies of the District of Columbia and, indirectly, from the field secretaries of the several States of the Union, showing that the complaint against the character of the films shown is general.

Instead of compiling all of the complaints received, the Christian Endeavor Union has authorized, by resolution, that this letter be written to you as well as that Mr. H. F. Worley, our superintendent of the citizenship department, appear before you with oral statement. The united societies, with headquarters at Boston, will file an additional statement. We make these representations and take this action on behalf of the young people of the United States of whom our societies are largely composed.

Very respectfully,

EARL TAGGART,  
*President Christian Endeavor Union.*  
HARVEY B. OTTERMAN,  
*Secretary.*

I quote as follows from a letter received from the headquarters of the United Society of Christian Endeavor at Boston, dated January 13, 1916:

Please put me on record most decisively in favor of the Smith-Hughes bill, which was reported unanimously by the Committee on Education in the National House of Representatives on February 2, 1915, and which is pending in Congress.

Something should be done instantly to command the moving-picture problem of the United States, and to defeat the unclean purposes of some individuals and promoters who have in mind only financial gain. The need is imperative, and we should swing with full weight for decency and for public morals.

Yours, very cordially,

DANIEL A. POLING,  
*Associate President, United Society of Christian Endeavor.*

Mr. Poling is the associate president and citizenship superintendent of our national organization. The citizenship department of Christian Endeavor, among other things, has to do with the religious and moral education and moral uplift of our young people and to secure information and make recommendation as to the proper forms

of entertainment and amusement for our membership. Every properly organized society in this and foreign countries has a committee on citizenship. I had hoped that Mr. Poling might be present at these hearings to represent our national organization, but the serious illness of the honored founder and president of the United Society, Dr. Francis E. Clark, has laid an additional burden upon Mr. Poling's shoulders, so that it is impossible for him to come to Washington at this time, as set forth in the following letter:

UNITED SOCIETY OF CHRISTIAN ENDEAVOR,  
CHRISTIAN ENDEAVOR HEADQUARTERS,  
Boston, January 13, 1916.

MY DEAR MR. WORLEY: It will be impossible for me to get to Washington for the hearing on the motion-picture bill. We are, of course, much interested in the matter, and we will be glad to have you represent us, since you are to represent the Christian Endeavor Union of the District of Columbia. You are closely in touch with the situation, and I know of no advice that I could give you. I am sure that you will represent us satisfactorily in every way.

Very cordially, yours,

DANIEL A. POLING,  
Associate President United Society of Christian Endeavor.

MR. H. F. WORLEY,  
306-307 Bond Building, Washington, D. C.

Mr. Poling has recently visited some 255 of the largest cities of the United States in a tour of the country extending over nearly a year and has visited many other places, is constantly in touch with the various State officers through correspondence, reports, and conferences, and State and national conventions. Each of our largest States has a State secretary who is almost constantly traveling over his State, and keeps in close touch with the sentiment of the Christian Endeavorers in his jurisdiction. Each State also has a department of citizenship. From July 7 to 12, 1915, was held in Chicago the Twenty-seventh International Convention of Christian Endeavor, at which were present delegates from every State, city, and almost every town in the United States. Each society is entitled to send a delegate.

As the superintendent of citizenship of the Christian Endeavor Union, I have for several years been in correspondence with the presidents of the various States as well as with the field secretaries and State superintendents of citizenship. I do not wish to cumber the record of these hearings with all of this correspondence and the resolutions passed by the various societies, State organizations and the national body, but if I submitted them all as my authority and reason for appearing, I could not more nearly represent the combined sentiment of Christian Endeavor on this subject than I do.

By all the means mentioned, information and complaints have been received and compiled, and I will give you a condensed statement of the facts and things complained of regarding motion-picture films, based upon the data received from all of these sources. Many of these things would not be so objectionable to older people of experience and settled opinions, but our membership is largely composed of children from 7 years of age up to and including high-school age. In some cases the pastors are complaining bitterly against the motion-picture shows and have preached sermons calling attention to the harmful effect of some films, and as no one can determine from the title or the outside illustrations the nature of the films, it will have the effect of

many of our people remaining away from the shows and put them in bad odor.

Many of the films are not obscene, lewd, lascivious, filthy, or indecent (as described in sec. 245 of the Criminal Code of the United States), but they do show features that are immorally suggestive, picture crime in a way to make heroes of the criminals, show the details of safe breaking and other criminal acts make the show a school in crime, and make many suggestions promotive of vice, trickery, and crime.

We object to the motion-picture play showing so much of loose married relations, adultery, infidelity, and jealousy. If a stranger should suddenly drop down upon this earth from Mars and get his information from the motion pictures of to-day, he would immediately conclude that there is not a single good, pure, virtuous woman or mother in the United States, as they make a mockery of married relations and marriage vows. The youth of our land is being educated through what they see in the motion picture and they will come to have the same view. The pictures also set forth un-Christian views of life and cast reflections upon the most sacred things in life. They too often hold up to ridicule the preacher and priest. There is often undue and unchaste familiarity between the sexes. Deaf-mutes are very expert in catching what is being said in a conversation by watching the movement of the lips. They have reported many times that the conversations carried on by the actors in the motion pictures were not only inappropriate to the picture, but were often vulgar and vile. Of course, the rest of the audience can not detect this. There is too much prominence given to the interior of saloons and dance halls and drinking and drunkenness. They often show too much detail regarding seductions and criminal assaults.

They prostitute the law, show the officers of the law and constituted authorities in an unfavorable light, and often the criminal escapes with the ill-gotten gains, marries a good girl who knows nothing of his past, and reforms. Other boys will think they can do the same. There is too much killing—it is too promiscuous—and the men die too easily. It tends to make life cheap. There is too much revenge, and jealousy is too prominent.

The manufacturers do not all have a decent regard for the sentiments of the people of the Southern States or of other sections, or for the races.

Some of the so-called "problem" and other plays may have a good or at least not a bad moral ending, but the story itself is so dirty that the end does not justify the means. What is not shown in the picture is supplied by suggestive explanatory wording. My little boy and girl often ask me "Daddy, what does that mean?" I can't tell them, but they get an impression that is indelibly photographed on their brain. In early adolescence, children are very impressionable and imitative, and such pictures as I have described tend to brutalize and degrade them. If it comes to a point where children must be kept away from the shows, very few parents will go and it will only be a matter of time when they fall into bad repute. The companies that are now producing nothing but clean pictures should not attempt to defend the business generally, including those who

turn out improper pictures. This same warning was sounded against the saloon in the last two decades, but in their generation the liquor trade thought they were "wiser than the children of light" and that they were too deeply entrenched in politics and the habits of men to be disturbed in what they considered as their rights. If they had kept within the law and due bounds and had regulated those of their number who openly flouted the law and conducted indecent places, the great prohibition movement in this country would not have attained its present proportions. A word to the wise is not necessary.

Christian Endeavor societies all over the world have uniform subjects for discussion at their Sunday evening prayer meetings. The Christian Endeavor World, the official organ of Christian Endeavor, is issued weekly and contains a full page or more of suggested treatment of the subject by the leader and others taking part. All denominations having societies of Christian Endeavor publish in their organs additional suggestions on the topics. These are published several weeks in advance for the study and preparation of those to take part in the meeting. The uniform subject for January 23, 1916, is "Amusement that is worth while." I quote from the Christian Endeavor World of January 6 on the part relating to motion pictures:

Motion pictures have in them possibilities of good, but as they are shown in many cities and towns they are fruitful sources of harm, picturing crime and making many suggestions promotive of vice. On the whole, they are not educative. They are too often sensational, exciting, or trivial. \* \* \*

The article then goes on to say that the plays are usually hurtful in their tendencies, setting forth un-Christian views of life, and that the attendance of Christians upon the performances that seem worthy does not serve to reform the institution, but simply gives countenance to it. The concluding paragraph is:

The Christian attitude toward amusements, while it should be boldly negative in its opposition to all harmful amusements, should also be helpfully constructive in its advocacy of amusements that are helpful. Thus only can we drive out the evil by putting in its place what is good.

Young people, a weekly magazine published by the Baptists, deals with the same subject of amusements and says that the productions lean toward the offensively, coarsely, even immorally suggestive; that too often the plays cast reflections upon the most sacred things of life, and that they have a subtly deteriorating effect and tend to lowering of the loftiest ideals of life. I could quote a large number of similar articles by various denominations on the subject of amusements, showing that this sentiment regarding the harmful character of some picture films is widespread and general. These articles are always quoted in the societies all over this country and will have the effect of fixing public attention on this subject.

I wish to emphasize in the strongest terms that I am in favor of the motion-picture play and think it has a great future if it is kept clean. I firmly believe that a Federal inspection or censorship of the films before they are exhibited would be a benefit to the manufacturers, distributors, and exhibitors. It would give them a standing. People would not hesitate to go, feeling that they would be in no danger of being offended or their children of seeing something undesirable. I am surprised that they have fought the bill.

I have cooperated with exhibitors in advertising films that I thought would be specially helpful or educating to the young. In one such instance the film was in this city 10 days, and the exhibitors said they had never had such crowds in their places before. I mimeographed a statement concerning the film, and this was read in all the young people's societies. I would be glad to do this at any time. On request one exhibitor cut out a reel that seemed particularly offensive. This can not always be done, as the character of the film is not always known in advance. It is only in the largest cities that they have exchanges where they can exchange an undesirable for a desirable film, and then they must know in advance what the film is. The films are received and sent out the same day and often it is not known what they are until thrown on the screen. Then it is too late to exchange, even if there is an exchange. In most places no such exchange is possible. If an exhibitor receives four films, and he finds one undesirable and cuts it out, the distributor allows him no discount, and some people may complain because they only saw three films. Most of the exhibitors I know or have talked with want to show clean pictures, and I sympathize with them. They tell me that in a lot of four films there is usually something undesirable in at least one of them, but that they must take the films that come to them on the circuit on which they are.

The Rev. Mr. Brady says that we "don't put certain books in the hands of our children." That is just what we are trying to do with regard to motion pictures—not to allow certain ones to be exhibited, or, to use Brother Brady's words, "to keep them out of the sight of our children."

When restrictive or regulative measures have been pending before the committees of Congress in the past, I have heard the same specious arguments advanced as to why they should not be enacted into law as are now put forward by the motion-picture manufacturers. They want to be let alone. They say that it is impossible to select five or more men who can pass on these films, but with unbecomming lack of modesty they admit that the five or six men in their plants are capable of deciding what is desirable and what is not. This is a strong assertion of virtue on their part to the effect that they are able to select men who can do this work satisfactorily but that the great Government of the United States can not.

They state that the legislation will infringe on their personal liberty. We have a great deal of civil liberty but very little personal liberty. Adam had it, but it was restricted by Eve's personal liberty when she came. In like manner Robinson Crusoe had it in unrestricted degree until Friday came. This law is no more an infringement of personal liberty than the pure-food law, opium law, forcible vaccination, prohibiting prize-fight pictures from being shown, holding of duels, lotteries, etc.

They say that this act would be unconstitutional. If so, why do they oppose it? The courts would determine that in their favor if it is unconstitutional. I take it that they fear that it is constitutional.

Conservation is the spirit of the day. We are conserving our natural resources in forests, water power, etc. We are spending large sums to save our fruit crops from blight and to prevent and cure



diseases of cattle and hogs. I submit that the greatest resources of our country are the boys and girls, who will be the men and women of the next generation. One of them is worth infinitely more than all the hogs in the land.

An ounce of prevention is worth a ton of cure. If a sewer pipe leaks in a home or on a public street, no one would counsel that it be let alone to see what the effect would be. No; they would all wish to stop up the poisonous flow of gas at once. They would want to take no chances at all, even though the leak might be very small and the effect be harmful in a small degree. If it were at all harmful, everyone would agree that it must be stopped at once. That is exactly the position we take regarding the motion pictures. The manufacturers agree with us that there are some pictures harmful in some degree and others that should not be exhibited at all. In fact, they have been prohibited by the courts from being exhibited at a number of places in this country. How much more necessary that we should stop this flow of poison into the youthful minds! It would not affect the pictures that are now clean, and in fairness I wish to say that there are some companies that I have never known to turn out a questionable picture.

The worst feature of the effect on the youthful minds is that the harvest will not be reaped this year or next, but the seed is being sowed and the crop will be gathered in the next generation. If preventive measures are not taken now, they will be too late for this generation. We can not expect to sow weeds and reap grain. "As we sow, so shall we reap."

For the benefit of the youth of the land as well as of the motion-picture manufacturers I trust that you will favorably report this bill and urge its enactment into law in such form and language that it will not injuriously affect any legitimate, well-intentioned manufacturer of clean films or place a burden or hardship upon him. If so, we shall feel deeply grateful to you and the manufacturers will soon see the benefits derived and will rise up and call you blessed.

**BRIEF SUBMITTED IN SUPPORT OF HUGHES BILL BY REV. HARVEY J. BROWN, OF OKLAHOMA CONFERENCE, METHODIST EPISCOPAL CHURCH SOUTH.**

For 39 years I have been a minister of the Methodist Episcopal Church South, my character passing every year. I have served missions, circuits, stations, and a district one full term. Am now a superannuate making my own living. Therefore I believe I speak free from any controlling bias. As the Methodist general rules are, first, "doing no harm;" second, "doing all the good we can;" and, thirdly, "attending church services." I believe we have a high yet simple standard as religionists. But as members of the body politic we desire high ideals brought into the realms of this common everyday world.

Now, such is the educational value of pictures, and especially the wonderful development of the moving-picture drama, that I am sure some such law as House bill 456 ought to be adopted, modified by such amendments as you and Congress think wise to adopt. Just as bad books and pictures are forbidden the use of the mails, and

unhealthy food may not be transported by the common carriers of commerce, so in some way our families should be protected against being deceived into the purchase of tickets to immoral photoplays. Impurity should not be allowed in the thought or words of the play or the actions of the players. Indecent exposure of person, suggestive movements of the form, obscene words and acts, should be canceled from such plays as may have them in the scenario or the film. Especially in the District of Columbia, Porto Rico, Alaska, and the Philippine Islands should the General Government be very strict in reference to these shows. Besides the general law as to the use of the mails, there should be specific laws governing the above-mentioned districts that are directly controlled by Congress.

No prudes, cranks, or nature worshippers should be on the commission of censors.

The power of pictures over the imagination and destiny of one family illustrates the moral and psychological necessity of guarding the latent force of pictures in our homes, unless we want our children to be like the pictures they view.

A widowed mother wondered why all her sons went to the sea, though she lived in an inland part of the country. The pastor of some church (so lightly esteemed by the representatives and special pleaders of the film companies, whose receipts are said to be \$350,000,000 annually) said, "Let me see their bedroom."

She took him to the same. On the wall there was a beautiful picture of a ship under full sail. "There, madam," said the pastor, "is the reason your boys ran off to sea." I believe a picture of Gen. R. E. Lee on the room of a young child, whom I knew in infancy and later in young manhood, was impressed on his character and features. Ages before moving pictures were invented religionists used images and pictures to convey religious ideas and holy truths. The parable of the prodigal son, as illustrated in our old family Bible, and the text "that he fain would have filled his belly with the husks the swine did eat," has never been blotted from my memory. Though legislating for scores of races and languages and people believing in three or four different religions, some of these having many denominations, and for one hundred millions of human beings, give us some law that will protect individual and family purity and high-mindedness as a nation.

**BRIEF OF THE MOTION PICTURE BOARD OF TRADE OF AMERICA (INC.), IN OPPOSITION TO H. R. 456.**

[William M. Seabury, of the New York bar, general counsel for the Motion Picture Board of Trade of America (Inc.).]

As a preface to the argument in opposition to the bill here presented for enactment we intend to present to the committee in the nature of a statement of facts upon which the subsequent argument is based, a brief description of the industry to be affected by the proposed legislation and in what manner from a practical point of view the bill if it becomes a law will operate and affect, (1) the public, and (2) each branch of the industry and every person engaged in it.

To this end we will incorporate the arguments which involve chiefly, if not entirely, the expression of matters of fact and opinion

by those who approach the subject and discuss it from the standpoint of the public, particularly the expressions of that mirror of public sentiment and opinion, the press of the country, and those who discuss it as educators, social workers, and those generally interested in the promotion of the welfare of the community, and by those who, while having the welfare of the community at heart and in mind, speak from the standpoint of the three most important branches of the industry, namely (1) the producers, by which we mean those who make the pictures, including their various employees and dependents, such as authors, scenario writers, directors, and actors; (2) the distributors of the films, namely, those who receive the film as a finished product from the producer and who distribute it to the exhibitors throughout the country and the world; and (3) the exhibitor who receives the film and with the aid of the motion-picture screen and the motion-picture projecting machine exhibits and displays its message to the public.

This foundation having been laid, we will then approach and discuss the subject in its legal aspects.

We will maintain (1) that Congress has no power to enact any bill based upon the principle of prepublicity censorship of the motion picture.

We will then analyze the proposed bill and show (2) that, assuming Congress may lawfully enact a censorship law, the bill now proposed is unconstitutional and improper in many respects.

Then (3), assuming without conceding the existence of the power in Congress to enact a censorship law, we will show that any such enactment is unnecessary and a work of supererogation. We will here discuss at length the existing laws upon the subject, national, State, and municipal, the alleged mischief which the proposed legislation is supposed to correct and eradicate, and, finally, the real and effective remedy for the suppression of the evils existing in the industry.

And we predict it will be demonstrated that the proposed legislation is not only wholly unnecessary and an utterly ineffective and a useless expedient for the correction of any existing evil, but that it is ruinous to the fifth largest industry in the country and will constitute a vicious, dangerous, and un-American piece of legislation, which in itself is a serious infringement of the liberties of the citizen and in reality is the announcement of the commencement of governmental censorship of the drama, the press, and of free speech, events so abhorrent and repugnant to the letter and spirit of our institutions and laws as to require from this committee its emphatic and positive denunciation and repudiation.

The motion-picture industry of this country is credited with being the fifth largest industry in the United States from the standpoint of capital invested.

As a medium of thought expression the motion picture is said to reach approximately eight to ten millions of our people daily, and the percentage of adult and infant attendance at these exhibitions is said to approximate, respectively, about 90 per cent for adults and about 10 per cent for children.

We are indebted to Mr. W. Frank Persons, director of general work of the Charity Organizations Society, of New York City, for

the following statistical summary of the work of the national board of censorship (so called) for the year 1915:

*Summary of statistical statement of the national board for the year 1915.*

Month.	Reels reviewed by censoring committee.	Subjects reviewed by censoring committee.	Subjects in which changes were made.	Changes made.	Subjects referred to manufacturer for complete revision.	Reels referred to manufacturer for complete revision.	Reels condemned in toto.	Subjects condemned in toto.
January.....	795	508	51	123	4	14	14	4
February.....	727	437	36	94	7	19	13	3
March.....	746	473	50	117	4	7	0	0
April.....	848	511	39	95	5	7	0	0
May.....	802	488	41	92	4	6	0	0
June.....	703	386	35	83	5	11	5	1
July.....	810	438	48	124	6	9	1	1
August.....	777	401	36	88	7	14	8	3
September.....	822	406	28	81	4	6	0	0
October.....	1,082	555	50	92	6	9	1	1
November.....	814	395	23	62	4	6	0	0
December.....	711	442	40	65	3	11	0	0
Yearly total.....	9,679	5,400	477	1,116	59	118	42	13

The industry as conducted to-day has four great branches, all represented here by the Motion Picture Board of Trade of America (Inc.), a membership corporation organized under the laws of the State of New York, for the purpose of promoting the general welfare of the whole industry, and in so doing, the welfare of the public at large.

We avail ourselves of the description of the industry made by Mr. Charles F. Kingsley, Mr. James H. Caldwell, Mr. Henry Melville, Mr. Samuel Owen Edmonds, Mr. George R. Willis, Mr. R. O. Moon, and Mr. James J. Allen, of counsel for defendants in the case of *United States v. Motion Picture Patents Co. and others*.

This is the so-called Motion Picture Trust case recently decided in favor of the Government by the district court of the United States in the eastern district of Pennsylvania.

At pages 4 to 7 of their brief counsel say:

The motion-picture business is practically a theatrical business. (This refers to the exhibition of motion-picture photographs.) Its revenue is derived from admission fees paid to motion-picture theaters by the public. These theaters show their audiences, by means of motion pictures, dramatizations precisely like those produced on the ordinary stage (*Kalem v. Harper Bros.*, 222 U. S., 55). The difference is in the machinery used. Each theater is provided with a screen in place of the ordinary stage and a motion-picture projecting machine which may be roughly defined as a projecting lantern with suitable mechanism to move a motion-picture film strip, automatically past the lamp so that the pictures thereon will be projected and merged on the screen. These machines are made and sold by projecting-machine manufacturers. Each performance in the motion-picture theater consists of a program made up of one or more of these plays of varying length, and sometimes includes pictures of news events and scenic or travel pictures. This program is diversified as much as possible by the exhibitor. His appeal to the public is precisely that of the ordinary theater. As in the case of the ordinary theater the public will not attend the motion-picture performance if the plays produced have been seen by them before or if they are not of a kind or quality which suits them.

A motion-picture exhibitor obtains his pictures in the form of long strips of motion-picture film to be described more particularly hereinafter, wound on reels or spools, which may be placed in his projecting machine. Each of these



reels contains a motion picture capable of reproducing a play, and when passed through the exhibitor's projecting machine will reproduce on his screen that play as originally enacted. The exhibitor arranges with a so-called exchange for a regular supply of these motion-picture plays, just as the owner of a stage theater books a series of plays. This exchange is operated more or less like a circulating library, and the exhibitor arranges to obtain a definite number of motion-picture plays for each performance. Each day's supply is returned to the exchange, after being shown, and a new supply obtained for the next day.

The exchange arranges for and obtains from the producers of motion pictures a definite supply of these plays, so that it is in a position to supply to exhibitors a continuous succession of them. This arrangement with the producers usually is in the form of a standing order for one or more copies of each motion-picture play. The exchange makes such an arrangement with a number of producers, and therefore has on its shelves a large and varied supply of plays. These are continually used up by the various motion-picture theaters, and are constantly replenished by new plays. This is done much as a circulating library obtains one or more copies of different books published by different publishers and assembles them on its shelves to be read in rotation by its readers. As each of these copies of motion-picture plays is obtained at a comparatively high price, and as each play has a constantly diminishing value in accordance with its age as to the date of issue and the number of places in which it has been exhibited, the exchange arranges, so far as possible, to keep it in constant use from the date it is released by its producer, until all of the exhibitors served by that exchange who desire to do so have shown it. And in doing this its rental prices are arranged on a descending scale.

The producers of motion pictures usually maintain the equivalent of a theater, with actors, employees, and scenery, together with the added appliances necessitated by the motion-picture art. The producer first obtains the scenario or play, precisely as the stage producer obtains his play, in manuscript. This play is then staged by the motion-picture producer, scene by scene, using actors and scenery substantially the same as if it were produced before an audience. Instead of an audience, however, the play is produced before a motion-picture camera in which a motion-picture negative of the play is made. From this negative as many copies as can be disposed of by the producer are made and sold or leased to the exchanges. Each of these copies then becomes substantially a replica of the original performance, or at least the tangible form by which the original performance can be reproduced by the motion-picture exhibitor. Each reel or play is, in fact, the equivalent of a road company, suitably rehearsed to produce the play and accompanied by scenery of the play. It is sent out from the producer's studio or theater substantially as road shows composed of actors, scenery, and other equipment are sent out from New York and Chicago for the purpose of producing a popular play in various parts of the country simultaneously.

Persons engaged in the practice of the motion-picture art divided automatically into four classes at an early date after it came into existence:

- (1) Manufacturers of cameras, raw films, and projecting machines.
- (2) Producers of motion pictures, including photo plays, dramas, current events, and scenic subjects.
- (3) Rental exchanges, doing a wholesale or jobbing business in machines and motion pictures, the latter of which they leased to exhibitors.
- (4) Exhibitors of motion pictures, being the owners or lessees of theaters, who leased programs of pictures from the rental exchanges, exhibited them to audiences for admission fees, then returned them to the exchanges.

We know of no better way to discuss the bill from the public standpoint than to present the following excerpts from the representative press of the country upon the subject, in which views the public educators and those engaged primarily in the promotion of the public welfare who spoke against the bill heartily concurred.

SENTENCE ARGUMENTS AGAINST FEDERAL CENSORSHIP FROM EDITORIALS IN NEWSPAPERS THROUGHOUT THE UNITED STATES.

[Detroit Free Press, Sept. 21, 1915.]

The Barnett ordinance creating a city censorship should be defeated, because it takes from the police and prosecuting attorneys the duties naturally devolving upon them and bestows the same on private individuals or societies.

The motion-picture theaters of Detroit have become public institutions with millions of dollars at stake in lands, buildings, and equipment. Their owners and the public have a right to protection from unfair and injurious legislation.

[Chicago Journal, Dec. 17, 1915.]

Moving pictures of prize fights are forbidden. Several large Chicago papers applaud. Yet these same papers devote full pages to showing actual scenes from the battle fronts in Europe. A prize fight does not kill. A battle picture that does not show men being destroyed by hundreds falls. Why permit one to be shown and deny the right to the other?

[Philadelphia Public Ledger, Sept. 30, 1915.]

"The free communication of thoughts and opinions is one of the inalienable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty." (Art. 1, sec. 7, Constitution of Pennsylvania.)

The fear of libel laws keeps the press within bounds and the fear of the laws, against exhibiting indecent, libelous, or immoral pictures will prevent the movie managers from offending public taste. Especially if those who transgress are punished under the general laws covering such offenses.

[Chicago News, Nov. 2, 1915.]

If censorship is right in principle, why is it not extended to include every variety of entertainment? Why censor the 10-cent motion-picture play and exempt the \$2 so-called problem play?

[Washington Post, Jan. 2, 1916.]

The censors for Pennsylvania and Ohio have turned their thumbs down on the works of Mr. Shakespeare. Only five of the bard's masterpieces have passed them.

[Hartford Post, Dec. 11, 1915.]

We are glad to see the Pennsylvania censors taken down a peg. They decided that a certain film could not be shown until a piece of it had been eliminated. The owners of the film appealed to court. The judge looked at the picture thrown on a screen in the court room and decided that it was fit to be presented to the public.

[New York Evening Sun, Oct. 12, 1915.]

The Pennsylvania censors have decided that some 5,000 feet of the Carmen film is shocking and improper. These four judges are adamant in ruling that she must positively lose some of her feet. Think of it! As if the fetching Farrar could ever be shocking to anyone.

[St. Louis Republic, Oct. 29, 1915.]

The general public takes no great interest in the controversy over film censorship. Members of the tribe of Constock and certain others who are greatly concerned that there shall be no ridicule of race and religions at the movies appear to be the active backers of censorship.

[Topeka Daily Capitol, Oct. 24, 1915.]

Kansas is not the only State where Carmen was prohibited from being shown by the censors. In Ohio and Pennsylvania the scissors were wielded wholeheartedly, and finally the picture was kept from these States altogether, as it has been in Kansas.

Comment: These are the three States in the Union that have State censorship.

[Louisville Herald, Oct. 25, 1915.]

The best of literature has been ransacked by the motion picture for the children. Sinbad the Sailor, Robinson Crusoe, the Cricket on the Hearth, Three Little Bears, Cinderella, the Children in the Tower, form a feast spread for their enjoyment.

[State Journal, Topeka, Kans., Oct. 19, 1915.]

Who protects the morals of the movie censors from the "terrible" pictures they must see? Do not these have a perverting effect upon them? They are normal Kansas folk. Perhaps it is necessary that the morals of the censors be sacrificed! If need be, but their plight seems to be a sorry one indeed.

[Cleveland Plaindealer, Oct. 15, 1915.]

If Carmen had been a nice, ladylike young person, Prosper Merimee would not have written a novel about her, and Bizet would never have had a chance to make Merimee's story over into one of the most popular of all operas. And, of course, no one would have made either novel or book into a picture play. And, now, the Ohio board of moving picture censors commands that Carmen must be respectable and orderly. She must not smoke, for smoking is not commendable in young girls of Carmen's age. She must not do other things which do not conform to accepted twentieth century social standards. She must, in fact, be denatured. The example indicates not only the uselessness but also the large nuisance value of the State censor board. The time is not far distant when the censorship nuisance will be abated. It is the recrudescence of Puritanism wholly out of harmony with the times.

[Toledo Blade, Nov. 29, 1915.]

Kansas has barred Carmen. Could Geraldine Farrar, a big, clean, fine woman, afford to risk her reputation as one of the world's greatest grand opera stars with a film that was not presentable? The mayor of Boston and other prominent men famed for their intellectuality and Puritanism welcomed the film and made of its showing a holiday.

[Morning Union, Springfield, Mass., Sept. 29, 1915.]

Public sentiment is the saving force in such matters (pictures about which there is doubt). It has in the past prevented the exploitation of many unsavory plays, not alone in the movies but on the legitimate stage as well.

[New York Evening Mail.]

Censorship, why? The motion picture is an art form. As such, like art itself, it must be free to practice in accordance with its ideals. The decision as to whether those ideals are worthy is too important to be left to one or two or a hundred people. The judgment must be given by the people who will benefit or suffer by the recreations they support. When this course has been pursued in the past there have been no mistakes.

[Pittsburgh Chronicle, Oct. 9, 1915.]

If censorship is to be real in effect as well as in name, it should extend to the posters displayed outside the theaters and to the plays shown within. It is within the power of the patrons of motion-picture shows themselves to censor objectionable pictures. They have only to withhold their patronage from the theater showing them.

[Waltham (Mass.) News, Nov. 6, 1915.]

A State or National censorship of films probably would lead to the censorship of dramatic productions, and thence to magazines, books, and newspapers.

[Messenger, Fremont, Ohio, Jan. 1, 1916.]

The censorship of moving picture films has been made a political football by Gov. Willis. The result is that motion-picture exhibitors may be forced into politics. It has come to their knowledge that several films, after having been passed by the censor board, have been recalled and rejected at the direct command of the governor. One of these is "The birth of a nation." It was barred from Ohio by executive order, because it was objectionable to certain manipulators of the colored vote. In the same connection it is told that another film was handled by the censors and approved. Remonstrance was made by a colored politician to Gov. Willis. The film producer heard of it, and said,

"I'll have to see that fellow for \$100 or so." He must have seen him for the next day the governor was informed that the objections had been withdrawn, and again the film was approved and released.

[Boston Herald, Nov. 8, 1915.]

The censorship of motion pictures by the States or Federal Government would put the responsibility in the wrong place. As capable of misuse, moving pictures are not in a class by themselves. Books may carry moral poison. Unwholesome books are actually sold. By very long experience the friends of law and order know it is wiser to deal with bad books after they appear instead of assuming that no publisher can be trusted.

[Montgomery (Ala.) Advertiser, Jan. 2, 1916.]

Why Federal censorship, anyway? We have no official Federal board to sit in judgment upon American literature or American newspapers. We have no Federal juries to require orators to rehearse before them ere they may deliver their orations to a breathless public. But we do have adequate laws protecting the public against indecent literature, indecent newspapers, and indecent speakers. If persons violate these laws they can be punished after the act. We should have laws to protect society against indecent films. We have such laws already. We don't need any more Federal guardians.

[Lawrence (Mass.) Eagle, Nov. 4, 1915.]

A body of nonexpert guardians of public morals is a sore and needless irritation to the public.

[Joplin (Mo.) Globe, Dec. 16, 1915.]

Standards of people vary surprisingly along this line. If every scene that possibly may offend somebody were to be eliminated from the average film there wouldn't be a great deal of it left.

[Motography, Oct. 2, 1915.]

Theater men in Kansas City, Kans., object to the State-censorship law, and said so on their screens by means of a film tailpiece. The State board, with all the assurance of a European military censor, cut off the tailpiece and refused to be criticized.

[New York Evening Mail, Oct. 15, 1915.]

There is no more need of censorship for motion pictures than there is for censorship of newspapers, for certainly it can not be claimed that the sensational newspaper is less potent in its influence than the film drama.

[Times, Elizabeth, N. J., Dec. 11, 1915.]

Moving pictures are not only educational, but are unobjectionable to at least 90 per cent of the population, and the authorities would make no mistake in observing this point.

[Tribune, Beaver Falls, Pa., Sept. 20, 1915.]

The courts of Allegheny County have in a recent decision nullified the police rights of Pennsylvania cities. By declaring that the State board of censors for moving pictures is the final authority, they have taken away the fundamental power of each city to govern itself. It is impossible to believe that this decision will stand when once its meaning has been made clear.

The board of censors has plenty of power to allow or disallow films for exhibition in this State. The tyranny of this body has been suffered only because appeals to the courts and to the police have been available as a check upon it. Now the court has decided that when a film has passed the censors it can not be stopped by the police.

The full effect of this decision is to tie the hands of individuals and to deliver the cities, bound and gagged, into the hands of the board. The censorship of plays properly rests with the people. Their protests are carried out by the police and by the court. There is nothing inherently wrong with the movies to make another kind of censorship necessary. And there is nothing sacrosanct about the board of censors to make its decisions irrevocable.

[Boston Transcript, Nov. 18, 1915.]

The unfortunate results of municipal censorship of motion pictures are making themselves felt in Boston, and should serve as a warning to other cities which are contemplating anything of the kind to give the matter most thorough consideration before entering on a policy that is in principal opposed to American ideas and American ways.

[Telegram, Bridgeport, Conn., Dec. 14, 1915.]

The Georgia Chamber of Commerce has prepared a motion-picture film of 5,000 feet in length giving views of various phases of Georgia's agricultural and industrial activities. Among them are pictures of the cotton industry, from planting and chopping time, through the various processes to the finished product of the mills.

We wonder if these mill pictures show the children from 12 to 15 at work? Or has Georgia a board of censorship that eliminated that little feature?

[St. Louis Post Dispatch, Nov. 4, 1915.]

If Park Commissioner Cunniff's motion-picture censorship bill passes there will soon be a demand for an enlargement of his field of activity. The people will want him to decide what the newspapers shall print, what drama shall be produced, and what books they shall read. Perhaps he will be asked to censor the sermons to be delivered from the pulpits and speeches to be made at public meetings. He will become our mental and moral dictator.

[Philadelphia Public Ledger, Sept. 22, 1915.]

There is no more need to censor moving pictures than there is to censor literature, the regular theater, or the newspapers. The circulation of a nasty publication is prevented by the police. They, likewise, would prevent the exhibition of a motion picture that was obviously unfit to be shown. This is a natural censorship to which there can be no valid objection.

[Cleveland Plaindealer, Oct. 30, 1914.]

The people themselves who daily throng the motion-picture theaters of this city and State are the best censors.

[The Philadelphia Evening Telegraph, Oct. 12, 1914.]

The moving picture is not an incentive to crime. Certain abnormal youths may commit crimes after seeing pictures precisely as some man may rob a jeweler's window after gazing at the rich display it contains. These circumstances, however, indict neither the moving picture nor the jeweler's display.

[Walton (Mass.) News, Sept. 28, 1915.]

The principle of censorship is one wholly foreign to American ideals. Liberty of the press and the stage has always been insisted upon. There are enough police regulations to put down the obscene and the nasty. The purely vulgar is taken care of by force of public opinion.

[Chronicle, Houston, Tex., Oct. 14, 1914.]

When the board of censors assumes to deal with any picture such as "The birth of a nation," which is free from immoral, lascivious, or purulent suggestiveness, and which only portrays the truth of history, and deals with questions of social and historical importance, then it passes beyond any legal line and trenches upon the rights of freeborn citizens who are capable of judging for themselves what they should or should not see.

[Commercial-Appeal, Memphis, Tenn., Nov. 9, 1915.]

High moving-picture exhibitors in Cleveland have adopted the policy of curfew regulation, by which children unaccompanied by adults are sent home at 9 o'clock. This is a regulation which could well be adopted by motion-picture theaters all over the country. The place for children at 9 o'clock in the evening is at home.

[The Press, Atlantic City, N. J., Oct. 14, 1915.]

In days not long past it was the practice of lazy thinkers to blame the dime novel and the cigarette for crime among juveniles; to-day the same class levels its absurd charges against the motion pictures.

The guardianship of children does not stop at the door of moving-picture theater, and parents who allow their children to go without knowing what they are likely to see can not escape responsibility for their carelessness, any more than if they were to allow them to attend the performances at the regular theaters indiscriminately. The only effective censorship is the registration of public opinion.

[The Morning Telegraph, New York City, Nov. 21, 1915.]

Harold J. Mitchell, of the twenty-first New York district, father of last year's State censor bill, was defeated for reelection because of his championship of the obnoxious measure. There are indications of a wide awakening of the American people to the fact that puritanical interference with innocent amusements is a species of tyranny which they have too long endured. It is bound to become as extinct as the "Dodo."

[Tribune, Chicago, Nov. 25, 1915.]

We see no reason why this censorship innovation should remain within the narrow confines of the moving-picture theater. There is a world of error to conquer. The press daily, or twice daily, pours forth its torrent of comment and report. Officials are subjected to criticism. Events which must stir the moral reprobation of the censorial conscience are minutely reported. Besides there are the books, the rostrum, and the pulpit—all of these constantly offend against the convictions and predilections, sentiments, and standards of the board of censors, who confine the safeguards of censorship to the humble and comparatively unoffending "movie."

[Post Dispatch, St. Louis, Nov. 1, 1915.]

The Post Dispatch believes in free speech and free writing, with individual responsibility for violation of law. We have never favored censorship of any kind—speech, press, drama, or literature. The public is a sufficient censor of productions that violate good taste and offend the moral sense.

[The Times, Pawtucket, R. I., Jan. 3, 1916.]

The bill creating Federal censorship of moving pictures, now in the hands of the House Committee, belongs in the category of avuncular legislation. The people won't go far astray in deciding for themselves what is proper and what is improper in filmdom. Uncle Sam has taken the trouble of regulating morals on more than one previous occasion, and he has proven himself a conspicuous failure at such work.

[Journal, Columbus, Ohio, Oct. 8, 1915.]

In our so frequent discussions of the ethical side of entertainments, and especially in regard to the moving pictures, a great deal is said about "the protection of the children." But there will always have to be discrimination on the part of the parent, and no public censor can ever take the place of that.

[Telegram, Bridgeport, Conn., Sept. 28, 1915.]

Freedom of speech in this Nation applies to the graphic—and the photographic—as well as the vocal arts. In Russia "they can suppress a picture, not only a picture, but a photograph or drawing"—just because the Government does not like it. We can not do so in this country. The community, however, has a right to protect its morals. The chief of police is officially and really the censor, and it ought to be left to him without interference.

[The Record, Columbia, S. C., Oct. 20, 1915.]

The one censorship which can be effective is the good taste of the people who make up a community.

[Gazette, St. Joseph, Dec. 15, 1915.]

The censor rejects merely because he personally does not approve of the picture. He approves for the same reason.

The pulpit was almost unanimous in commending the film pictures of John Barleycorn, yet it contained more drinking scenes than any other photoplay made.

Local or national censorship fails. At present no two people will agree, city will not accept the judgment of the State, nor the State that of a Federal comment.

[Review, Fort Collins, Colo., Oct. 23, 1915.]

The idea which had the public morals as its basis when the boards of censorship were formed has proven a boomerang to public officials. This kind of thing seems inherent in the practice of censorship. When the government dabbles in private morals condemnation is sure to follow. Censorship should not rest with any small group of people.

[Times, Brockton, Mass., Sept. 24, 1915.]

Really the best censor is a calm public mind reinforced by the shrewd sense of the amusement purveyor.

[Times, St. Louis, Oct. 6, 1915.]

A local system of censorship of motion pictures would put a lot of busybodies in charge of one of the most rapidly growing industries in the world. This is what censorship of motion pictures means. We feel sure that the board of alderman will not endow our moral guardians with the authority they seek. They are bad enough as it is.

[Portland (Oreg.) Journal, Nov. 1, 1915.]

If censorship is good in principle it should properly be extended to include every variety of amusement.

[Transcript, Boston, Jan. 6, 1916.]

So absurd are the regulations of the boards of moving-picture censors and the standards which they have raised that they have frequently been made the subject of much ridicule. Only five of Shakespeare's plays would escape at the hands of these censors.

[Journal, Portland, Oreg., Dec. 29, 1915.]

If the city has the right to censor moving pictures before being shown, why not have a board to examine the traveling "legit." shows before allowing the public to see them? The cases are perfectly analogous and parallel.

[Republican, Hackensack, N. J., Dec. 16, 1915.]

Pennsylvania and Ohio movie censors cut out Romeo and Juliet, because Juliet is a girl in her teens conducting herself in a most unmaidenly fashion, and the play abounds in kisses and passionate love scenes. Having thus eliminated the great dramatist's art, the censors passed, without question, modern society dramas showing elopements, assassinations, murders, and suicides. The censor is a rare animal.

[Reflector-Herald, Norwalk, Ohio, Oct. 18, 1915.]

Hail to the Ohio board of censors! We would like to say for the sake of alliteration, the board of sensible censors. But to call the Ohio board of censors sensible would not be true. We fear the board needs the broadening influence of travel and the education that goes with it.

The bill, if passed, would ruin every branch of the industry. This is not a mere extravagant expression, but a serious reality conclusively demonstrated by the following discussion:

### POINT I.

#### ANY CONGRESSIONAL ENACTMENT INVOLVING THE CENSORSHIP OF MOTION PICTURES WOULD BE UNCONSTITUTIONAL.

The provisions of the Federal Constitution which we shall argue would be violated by legislation of the kind suggested are the following:

The sole excuse for the exercise of the power proposed to be exerted is the so-called commerce clause of the Constitution (sec. 8 of Art. I), which authorizes Congress—

To regulate commerce with foreign nations and among the several States and with the Indian tribes.

Censorship necessarily involves an exercise of the police power, which power rests solely with the several States, and that power can not under the cloak of regulating commerce lawfully be exerted by Congress as to matters properly within the control of the States. In this instance, as will be shown throughout this argument, in reality it is the exhibition of pictures of an immoral nature which Congress proposes to prohibit by the exercise of its control over the subject of interstate commerce. But, as will appear more fully hereafter, this result may lawfully be achieved by Congress by simply prohibiting the transportation or introduction of any indecent motion-picture film into the country or among the several States in interstate commerce, so that it is wholly unnecessary and, as we shall show, distinctly improper for Congress to undertake the guardianship of the morals of the people of the several States by the establishment of Federal censorship upon films under the guise of the commerce clause of the Constitution, especially when a lawful and effective expedient such as we have suggested is immediately available.

Article I of the amendments to the Federal Constitution provides that Congress shall make no law "abridging the freedom of speech or of the press."

Our argument in this connection is that news and serial motion pictures are within this prohibition, even though the dramas displayed in motion pictures may not be.

Article V of the amendments of the Federal Constitution provides that "no person shall be deprived of life, liberty, or property without due process of law \* \* \*."

The respects in which we claim any censorship statute would violate this provision is that a censorship of good films as well as bad is a necessary incident of any censorship and constitutes and is an undue interference with the liberty of the citizen in the conduct of a lawful business.

Before attempting to discuss in detail the power of Congress to enact a censorship bill the status of the motion picture must be considered.

It is very helpful in this connection to consider the nature of the topics of the pictures displayed by the exhibitors to the public.

(1) The news motion picture is what its name implies, a pictorial representation of the events of the day as they occur. This branch of the industry is receiving special attention from the producers, who are working on an extensive scale in cooperation with the great newspapers and periodicals of the country in gathering and reproducing for the public pictorial news, cartoons, and editorial comment, and so splendidly has this branch of the industry advanced that to-day the companies so engaged produce motion pictures depicting the events of the very day in which they occur exactly as the great daily newspapers do throughout the country. We quote from an interesting announcement recently made by a company known as the Hearst Vitagraph Co., which shows the extent of the development of this special and rapidly increasing branch of the industry:

Something over two years ago a motion-picture man with a keen sense of values was able to win the attention of Mr. William Randolph Hearst. The publisher of the greatest newspapers and magazines and owner of the International News Service with various subsidiary departments supplying all the important news publications in America with text, news, and photography, had for years previously appreciated and employed motion pictures. The result of the interview was the Hearst-Selig News Pictorial. An arrangement was made with the Selig Polyscope Co., of Chicago, whereby that company was to act as print manufacturer and distributing agent. \* \* \* The point should be made that there are opportunities in the news reels which so far surpass those of any printed medium that the field is as wide as publishing. The possibilities for making the news reel a tremendous power with myriad activities are unlimited.

The Hearst-Selig News reel performed its work in its day, but after consultations with exhibitors' exchanges, the Hearst editors and camera men, a plan and prospectus for a greater and better news reel as it should be, was laid out. The proposition was revolutionary, as revolutionary as the modern day newspaper is over the small town four pager. It called for such sweeping improvements, changes, and evolutions that even to compass the scope of what was suggested was a task. \* \* \* The International News Service supplies 1,000 newspapers in addition to magazines of all types with a complete telegraphic report of the world's happenings.

The International Film Service, the allied company, supplies these same publications with original photographs of the most timely events. In addition to this, William Randolph Hearst employs special staffs for each of his various newspapers, including the New York American and Journal, the Chicago Examiner, San Francisco Examiner, Atlanta Georgian, Boston American, etc. In addition to this he employs correspondents specially retained for his magazines, including the Cosmopolitan, Hearst's, Harper's Bazaar, Motor, etc. The manner in which the Hearst organization maintains a vigilant watch of the world is unquestionably the greatest example of efficiency known. \* \* \* There is not a city, town, or hamlet that appears on the map which has not its Hearst correspondent and photographer on the ground. This is why if the Sultan of Turkey is passing through Bagdad, a photograph of him is made by the Hearst photographer and rushed to America. This is why if there is an important event from Maine to Mexico as soon as the news can be dispatched a Hearst man takes the picture and the news with it. This is why, to relate an actual instance—down in Philadelphia a short time ago when the Roebing fire occurred a Hearst photographer had his films delivered in New York City before even the Philadelphia men were on the ground.

In describing the news service of the Hearst Vitagraph Co. the following was said at an address to exhibitors throughout the country:

The Hearst Vitagraph News Pictorial will come to you independent of any other service. It is not going to be packed in as an adjunct to comedies and dramas; it is not going to be just one of several things that are handed to you indiscriminately. It must stand or fall on its own merit, because you will buy it separately, and insist on its making good separately. \* \* \* The country

is to be divided into zones; that is to say, if you are located in San Francisco you are not going to be served with the same news as though you lived in New York. International news will be supplied to all the zones, but each zone headquarters will maintain its own individual news-gathering establishment in its own territory, and will supply local news as though you lived in New York. International events. \* \* \*

For those theaters desirous of obtaining it a "special extra" service will be added. It will consist of photographs of unusual importance. A section of film will be rushed by a messenger, special, etc., to the exhibitor. \* \* \* A system of lobby announcements and posters which will have the atmosphere of news-rush-telegraphic effect has been worked out.

Such an announcement perhaps justifies the prediction that the time is not far distant when, instead of having our breakfast grow cold while we read the awkward and cumbersome morning paper, a positive film will be delivered at our door with the milk and cream, and it will be inserted in the domestic picture machine just as to-day we place upon a talking machine a Columbia or a Victrola record, and the news of the day will be exhibited to us, automatically, while we eat.

The news motion picture is exactly like the newspaper. The news motion-picture film is like the matrix or linotype from which the newspaper is printed. The film is the physical substance while the picture as projected upon the screen creates only a mental impression.

(2) The serial motion picture is like the magazine or pictorial fictional publication, for it purports to tell in pictures a continuous story, chapter by chapter, with intermissions between each, which require repeated attendance just as repeated purchases of individual copies or a subscription to a magazine is necessary before the whole serial story is seen and read. The serial motion-picture film is like the type or plates from which the magazine is printed. Again, the film is the physical substance from which, with incidental auxiliaries, the mental impression is received.

(3) The photoplay; that is, the motion picture which is pictorial drama—is exactly like the human drama of the stage. The negative is made by taking a picture of the actors while acting a play, and the simile has often been drawn between the positive prints of one of these photoplays which leaves the distributor on its journey throughout the country, from theater to theater, and the ordinary theatrical company on the road touring the different cities, the only difference being that in one instance human beings do the traveling while in the other the films do it. And to complete the analogy, while the photoplay is like the drama, the photoplay film may be likened to the manuscript from which it is possible to learn to produce the drama itself upon the stage.

Thus it is obvious that the present condition of the motion-picture art is such that legislation concerning it may not intelligently be considered, much less enacted, except with particular reference at least to the three chief classifications to which we have referred. And this classification, imperfect and incomplete as it may be, is helpful in our demonstration of the manner in which the subject in its different topics and aspects must be treated.

It can not be intelligently treated as a whole without recognizing the different conditions to which each branch of the industry is subject nor without a recognition of the vital difference between the

physical film and the mental impression cast upon the public mind by the exhibition of its silent message.

We conclude, therefore, that the news and serial motion picture can only be treated the same as newspapers and periodicals, while a photoplay can only be treated as dramas are treated.

What, then, is the character of an act of Congress based upon the principle of censorship of motion pictures?

- (1) Is such an act an exercise of police power?
- (2) Is it a license law enacted for revenue or as a police measure?
- (3) Or is it a lawful exercise of the power to regulate commerce with foreign nations and among the several States?

It is self-evident that the measure is in reality a police measure because its obvious and avowed purpose is primarily to protect the morals of the citizens of the several States.

This is a subject within the control and jurisdiction of the several States and is not within the power of Congress except as it may be incidentally involved in the exercise of its powers under the commerce clause of the Constitution.

And it has been said in substance that the Federal power to regulate commerce does not supersede the power of the States to legislate with reference to matters within the State, which can be most advantageously regulated by the State itself, such as quarantine inspection, health, internal communications, and the like (*Gibbons v. Ogden*, 9 Wheat., 1).

Thus it has been held the State alone may regulate the practice of prostitution therein.

In *Keller v. United States* (213 U. S., 138, 144) the Supreme Court said:

While the keeping of a house of ill fame is offensive to the moral sense, yet that fact must not close the eye to the question whether the power to punish therefor is delegated to Congress or is reserved to the State. Jurisdiction over such an offense comes within the accepted definition of the police power. Speaking generally, that power is reserved to the States, for there is in the Constitution no grant thereof to Congress.

The Supreme Court of the United States in the case of the Mutual Film Co. v. The Industrial Commission of Ohio (236 U. S., 230) expressly held that a State-censorship statute was a valid exercise of the police power of the State to regulate the exhibition of dramas in motion pictures within its borders.

It did not hold that Congress might lawfully exercise the power of censorship upon motion pictures to be exhibited within the several States.

Its decision was made with particular reference to the exhibition of motion-picture dramas, and the question of whether or not a concern engaged exclusively in the production of news motion pictures or serial motion pictures were entitled to the protection of the sections of the Constitution prohibiting the abridgment of freedom of speech, and freedom of the press, was not directly involved.

The Supreme Court did not hold that a State could constitutionally censor the exhibition of pictures devoted exclusively to the representation of the news of the day.

Certainly nothing in the decision supports the argument that Congress may lawfully enact any such provision.

The police power is the power of the State to regulate the public health and morals. It is a power Congress does not possess except when used as a legitimate incident of some other existing power.

The power to regulate interstate commerce is a national and not a State power. Yet bearing these simple propositions in mind, the Supreme Court, in the Mutual Film Co. case, decided that a State regulation of the exhibition of motion pictures by means of a State censorship board, including the imposition of a State tax upon the inspection of films which originally came into the State as interstate commerce, was not an interference with interstate commerce and consequently was not beyond the authority of State enactment. How, then, can any court be expected to hold when Congress passes the same kind of an act, solely for the purpose of preventing exhibitions of pictures within the several States, that the character of the legislation, although identical, becomes changed from a statute which regulates the police power, to one which lawfully regulates commerce?

It is clear no such jugglery may logically be permitted.

When the States passed a censorship statute, the Supreme Court said it did not interfere with interstate commerce and that it was a lawful exercise of the police power of the States.

If Congress passes a censorship statute, can the courts be expected to hold that the act is passed pursuant to this power to regulate commerce and that it is not a police measure? We think not.

The power to regulate commerce is of course with Congress.

The police power is exclusively a State and not a Federal power.

State censorship is not an interference with interstate commerce and is a lawful exercise of its police power in so far as dramas are concerned. How, then, can a Federal censorship bill be held to be the regulation of interstate commerce and not an exercise of police power?

(2) Nor could such a law be upheld as a license law.

Such laws are either police regulations which we have seen Congress has no power to enact, or revenue bills which it is admitted it is not the present purpose of Congress to enact.

(3) Therefore the sole source of power to enact such a law must be found in the commerce clause of the Constitution.

Up to this time our country has not tolerated the suggestion of the existence in Congress of power to censor the press under the guise of regulating commerce.

The guaranty of our Federal Constitution and of the constitution of every State in the Union has been in substance that every man shall have the right to express and publish freely his thoughts and sentiments, being responsible both criminally and civilly for the abuse thereof.

It is to preserve this principle inviolate in its application to the exhibition of motion pictures, particularly to the exhibition of the news and the so-called serial motion picture, for which we earnestly contend.

The constitutional validity of any State-censorship statute in its exclusive application to the exhibition of news motion pictures or serial motion pictures has never been squarely presented or decided.

In other cases besides the Mutual Film Co. case, supra, the courts have uniformly regarded the motion-picture photoplay in the same light as a drama.



This is particularly so with reference to copyright matter (*Harper Bros. v. Kalem Co.*, 222 U. S., 55), where the pictorial reproduction of Ben Hur was involved.

We are obliged to recognize the power of Congress specifically to prohibit the introduction into this country of a film which depicts a prize fight (*Webber v. Freed*, 224 Fed., 355, affirmed in the Supreme Court of the United States). 36 S. C. R., 131.

The enactment of this statute, however, involves no question of the right of the Federal Government to censor films by the exercise of the police power, and that case is no authority for the enactment of a censorship statute by Congress.

It is not pretended that Congress has any power to enact this statute other than the power conferred by the so-called commerce clause of the Constitution. And this function would be fully performed by the enactment of a law forbidding and penalizing the transportation of immoral and indecent films in interstate commerce.

The insertion of the words "motion-picture film" in an appropriate place in section 245 of the Criminal Code of the United States would at once exert and exhaust the entire power of Congress over this subject.

If thereafter any such film was transported in interstate commerce, long before its exhibition the sender and the receiver would be amenable to the Federal criminal law.

If the film so shipped was of the prohibited character, the ordinary enforcement of the criminal law would punish the wrongdoer.

The effort has been made to establish the power of Congress to enact a censorship statute by comparing it with existing statutes said to involve the application of the same principle, but the attempt proves unsuccessful.

(1) Thus the enactment of the so-called white-slave law is said to involve the same principle. But the principle is wholly different.

The authority of Congress to deal with the subject involved was found only in the commerce clause of the Constitution. And in this respect the emotional tendency of our legislators and even of our courts was so great that in an effort to correct an admitted wrong and abuse, whether or not a corrective power existed in the body assuming to wield it, the limited authority of Congress to deal with the subject was almost forgotten until one of the district judges pointed out that Congress only had the right to regulate commercialized vice under this statute and not immorality as such wholly disconnected with commerce. We can not say that the validity of the white-slave act has been conclusively affirmed by the Supreme Court of the United States in its application to vice and not of a commercial nature. In the case of *Diggs and Caminetti v. The United States* (220 Fed., 545, 557) the United States Circuit Court of Appeals for the Ninth Circuit, sitting in San Francisco, expressly held that the immorality denounced in the white-slave act is not confined to commercialized vice. On June 14, 1915, an application was made to the Supreme Court of the United States to review this decision upon certiorari, which application the learned Supreme Court denied. (*Re Caminetti*, petitioner, 238 U. S., 636.)

But on June 21, 1915, the Supreme Court of the United States did an almost unheard of thing in vacating its order denying the appli-

cation for certiorari and instead the writ was granted (*re Caminetti*, petitioner, 238 U. S., 637).

The most important question involved in this case is whether or not the statute is applicable to a case which admittedly had no commercial features.

(2) The present proposed bill is likened to the interstate commerce act with which it is obviously wholly dissimilar.

The extensive administrative and judicial functions exercised by the Interstate Commerce Commission involved no such principles.

The commission is intrusted with the enforcement of the law relating to interstate commerce, and if those subject to its jurisdiction offend the law then, either upon the complaint of a citizen or through the activities of the commission, a complaint is made against the offender, a specific charge, not that some one is about to offend the law, but that he has offended it, is made against him, and the person charged has his hearing before the commission and with certain limitations the right of review before the courts.

The rate-making power exercised by the Interstate Commerce Commission involves no principle of censorship. It is simply the exertion of a power committed exclusively to Congress by the Federal Constitution and, according to the decisions of the Supreme Court, lawfully delegated by Congress to its commission.

And the same may be said of the Federal Trade Commission and the Federal Reserve Bank Board and of every other commission ever created by our Government.

(3) The censorship principle is said to be involved in and to underlie the Federal statutes which regulate the importation and transportation of foods and drugs (see food and drug act of June 30, 1906, chap. 3915, 34 Stat., 768, 771), and the protection afforded from the importation and transportation of infected animals and meat established by the Federal meat inspection law (June 30, 1906, chap. 3913, 34 Stat., 669), and other similar statutes.

But no such principle is involved in any of these statutes.

Impure food, habit-forming drugs, and infected cattle, dead or alive, are dangerous to human health in and of themselves, and inspection of such subjects is not a censorship of them.

Whether food is impure and consequently dangerous to health, whether certain drugs contain opium, morphia, or poison of prohibited character, and whether a particular cow has or has not an infectious disease are all medical facts, the existence of which is susceptible of accurate determination by competent inspection of substances already in existence. But the same result can not possibly be achieved by the censorship of a drama or of a motion picture.

There is admittedly nothing inherently dangerous from the standpoint of morality in contact with the physical substance of the films, and whether or not a particular picture when exhibited to the public, either as news, as a periodical, or as a drama, will or will not impair the morals of the community is not susceptible of specific determination except in very gross and plain cases. Such matters involve honest differences of opinion, different standards of morality, each in many instances equally good, and different ideals. One community learns a lesson and derives a benefit from the exhibition of a certain picture, while another audience in a different location may

obtain no benefit from the exhibition, and might even be injuriously affected by it. But these are not proper matters for determination by any one commission for the benefit of a country of 100,000,000 people. The only legitimate censor of thought expression is the community in which the thought is expressed.

If a thought is expressed which offends the moral sense of the community in which it is published, there are ample existing remedies to redress the wrong; but it is impossible to accomplish the suppression of an exhibition of undesirable pictures by providing for their national censorship. Who would seriously suggest that an author should submit his manuscript to the Librarian of Congress for his approval and censorship before he might copyright his literary production? Who would seriously suggest that a clergyman should submit the manuscript of his sermon to some legalized censor who had the privilege of determining the right of the clergyman to deliver the sermon to his congregation?

Who would seriously suggest that the press of the country submit its galley proofs to a national board of censors for review prior to publication?

A play or drama can not intelligently be compared to a piece of infected meat. Neither can the newspaper, the magazine, nor the sermon. And so we confidently assert that none of the statutes to which we have referred contain the slightest analogy in principle to the bill here proposed to be enacted.

(4) Clearly the Federal effort to suppress lotteries has nothing to do with censorship.

Congress deals with this subject by prohibiting the deposit of anything relating to it in the mails (Criminal Code of the United States, sec. 213) and by making the importation of articles used in connection therewith a crime (id., sec. 237).

Suppose some one has a plan or scheme which he does not think is in reality within the provision of these sections.

He may, if he so desires, submit the plan to the postal authorities or to the district attorney of his district, and if these authorities see fit they may express their opinion concerning it; but no one is required to submit his proposals of this kind to the Government, nor would any expression of opinion from the Government itself determine the question of whether or not a crime was committed by the commission of the act involved.

The responsibility for an act done must rest with the person who commits it. If he offends he is punished, but he is not required to seek governmental advice upon matters of this kind.

(5) Neither does the postal fraud order rest upon any principle of censorship.

When the postal authorities have evidence satisfactory to them that a fraud has been and is continuing to be committed by the unlawful use of the mail it has power to prevent the delivery of such mail. (Revised Statutes, secs. 3829, 4041.)

But the right is reviewable, at least to some extent, in the courts. (School of Magnetic Healing v. McAnnulty, 107 U. S., 94; Philadelphia Co. v. Stimson, 223 U. S., 604, 620; Degge v. Hitchcock, 229 U. S., 162, 171.)

(6) So the act of July 31, 1912 (sec. 1, chap. 263, 37 Stat., 240); merely makes it unlawful "to bring or cause to be brought into the

United States from abroad any film or other pictorial representations of any prize fight or encounter of pugilists, under whatever name, which is designed to be used or may be used for purposes of public exhibition."

This is an ordinary criminal statute and it attempted nothing but the lawful exclusion from the country of a specified type of film the characteristics of which are exactly and unmistakably ascertainable and which was, in the opinion of Congress, of a harmful nature.

Its validity has been upheld by the courts. (Webber v. Freed, 224 Fed., 355, affirmed United States Supreme Court Dec. 13, 1915; 36 S. C. R., 131; and in Kalisthenic Exhibition Co. v. Emmons, 225 Fed., 902.)

But no principle of censorship is in any way involved in that statute.

(7) So it is with reference to the tariff act.

Articles are entered or registered in the first instance based upon the declaration made concerning them. If disputes arise with the customs officials as to the proper classification or the right to enter the article at all, the rulings made are reviewable and the question involved may be determined by competent authority, but no question of censorship is involved in such statutes.

It is interesting to observe that subsection 380 of section 1 of the tariff act of 1913 (act Oct. 3, 1913, chap. 16, 38 Stat., 114, Compiled Statute, 1913, sec. 5291) imposes a specified duty on photographic film positives imported in any form for use in any way in connection with moving pictures, exhibits, etc., and adds a provision to the effect that all films so imported shall be subject to such to such censorship as may be imposed by the Secretary of the Treasury; but in July, 1915, the court said concerning this section:

As yet the Secretary has not exercised the power given him by this provision. (Webber v. Freed, 224 Fed., 355, 356.)

We conclude from what has been said that Congress is without power to enact any bill based upon the principle of censorship of motion pictures.

## POINT II.

Assuming without conceding that Congress may lawfully enact a censorship bill, the particular law here proposed is unconstitutional in each of the respects already urged and in the following respects, and is otherwise the subject of grave criticism.

Sections 3 and 4 of the bill provide that no person shall be appointed an advisory commissioner who directly or indirectly has any pecuniary interest in the exhibition of motion pictures or in any film exchange or firm or corporation engaged in manufacturing motion-picture films.

Why this discrimination?

Surely it can not be contemplated that the commissioners and the deputy commissioners and their assistants may have a pecuniary interest in some firm or corporation engaged in some branch of the motion-picture industry while he acts as censor upon the films of his company's competitors.



## Section 5 provides:

That the commission shall license every film submitted to it and intended for entrance into interstate commerce, unless it finds that such film is obscene, indecent, immoral, inhuman, or depicts a bull fight or a prize fight, or is of such a character that its exhibition would tend to impair the health or corrupt the morals of children or adults or incite to crime. The commission may license any film subject to such excisions, amplifications, or alterations as the commission may direct and require to be made. The commission may by unanimous vote withdraw any license at any time for cause shown.

We have seen that the power of Congress to deal with the subject at all rests solely upon the commerce clause of the Constitution.

We know of no power in Congress to legislate with reference to any matter "intended for entrance into interstate commerce."

Its power is confined to legislation which will affect merchandise which actually is in interstate commerce and not substances which some one may intend ultimately to send into interstate commerce. This provision of section 5 from a practical standpoint is destructive of the industry. We have seen the manner in which producers conduct their business. We know that when a picture is taken at a studio the usual course of business is for those in charge of the studio to send the negative film of the picture to the home office of the producer for the purpose of development and for the making of positive prints therefrom and for the purpose of revision and for preparation for ultimate exhibition to the public.

The provision of the statute as it now reads would include such a film. Such a film may reasonably be said to be "intended for entrance into interstate commerce," and yet it may never be exhibited and its immediate exhibition in the form in which it then exists is not within the contemplation of the parties at all. Moreover, the sending of any motion-picture film from one branch of a manufacturing or producing establishment to another owned by the same parties for any purpose is within the prohibition of the act as drawn.

Unless "it," meaning the commission, finds that a film is obscene, indecent, immoral, inhuman, or depicts a bull fight or a prize fight, or unless it is of such a character that its exhibition would tend to impair the health or corrupt the morals of children or adults or incite to crime, the commission is directed to license every film submitted to it, and it is provided that by unanimous vote the commission may withdraw any license at any time for cause shown. What number of commissioners is required in order to pass the film in the first instance and to license it, and for what "cause shown" may a license once granted be withdrawn upon unanimous vote?

And how, may we ask, is it humanly possible for the commission or anyone else to determine whether a film is "of such a character that its exhibition would tend to impair the health or corrupt the morals of children or adults or incite to crime"?

But perhaps the most extraordinary power sought to be conferred by the act is that which assumes to authorize the commission to license any film subject to such "amplifications or alterations as the commission may direct and require to be made." This authorizes the commission to direct a manufacturer to make perhaps several thousand feet of film solely for the purpose of "amplifying" and of exploiting some idea of the commission. The commission is given the authority to determine what shall be emphasized by way of illus-

tration or what less shall not be conveyed by the picture, and what shall be suppressed, curtailed, or entirely eliminated. In other words, the arm of the Federal Government becomes the manufacturer of motion pictures on the capital and at the expense of the producer. It dominates and controls and determines what shall be produced and what shall not. In other words, it censors pictures.

Particular attention is directed to section 6, which provides that the commission shall adopt an appropriate seal, which shall be affixed in such manner as the commission may direct to every film approved by it. "Such seal shall not be attached to any film which has been approved by the commission subject to revision until after the required changes have been made, a record of which shall be kept, and portions objected to shall be delivered into the possession of the commission."

Apart from the impracticable inconvenience to which the producers of motion pictures would be subjected by the revision and resubmission of their films to the commission, why, may we ask, is it necessary to insert the last line and a half, whereby the property of the producer is confiscated by the Government?

And this provision for confiscation of the film is not predicated upon the particular portion of the film so confiscated being injurious either to the public health or public morals.

It is the mere naked appropriation of the property of the producer without compensation and without cause.

Section 9 provides that no copyright shall be issued for any film which has not previously received the certificate and seal of the commission.

The invalidity of this provision was so convincingly discussed before the committee as an interference with existing treaty rights, and the proponents so readily conceded its impropriety, that we refrain from discussing it at length.

Section 10 prohibits the carriage or transportation of any film from one State to another or from any foreign country into the United States, "unless such film has been licensed by the commission and a true copy of the certificate accompanies it, provided that this section shall not apply to films consigned to this commission."

This provision will, according to section 18 of the act, take effect nine months after the date of the approval of the act.

It appears in the evidence submitted to the committee that there are to-day approximately 190,000 reels of motion-picture film in existence in this country. Each reel contains 1,000 feet of film. All of this film must, according to this section of the act, be submitted to the commission and be licensed by it within nine months from the date of its passage. Otherwise it shall not be carried or transported from one State to another within the United States. The magnitude of the motion-picture film now existent is so great that those who have an intimate knowledge of every branch of the industry assure us that it would be a physical impossibility for any commission, even if composed of hundreds of persons, properly to inspect all of such motion-picture film within the time prescribed.

The result is that this section is confiscatory and an unlawful appropriation of the property of the producers.

If the Interstate Commerce Commission promulgates a rate-making regulation, which rate is so low that the railroads can not make a

reasonable profit under that regulation, it has frequently been held that such a rate is in reality confiscatory and constitutes an unlawful deprivation of property within the inhibition of the Federal Constitution. (See *Ex parte Young*, 209 U. S., 123, 144, citing many cases.)

So it is here. If the operation of the act as proposed actually destroys the value of one's property, there is just as much an unconstitutional appropriation of property as though it had been physically appropriated. In this connection we also direct attention to that part of section 6, line 18, already mentioned, requiring the delivery of a portion of objectionable film to the commission, and also to section 14, line 15, which, in addition to prescribing a punishment for violation of the act, provides that "the films unlawfully changed, exhibited, or transported shall be confiscated." Thus the confiscatory intent of the bill is not left to one's imagination.

Section 12 of the bill, while apparently imposing a reasonable fee to cover the cost of censorship, is in reality almost as unreasonable as some of the other provisions of the act. One of the officers of a large distributing company is interested in a small moving-picture camera which is intended for private use. The few inches of film to be used in this camera is or will be made at a cost of about 25 cents. Under the provisions of this bill it will cost \$1 to censor a film which costs 25 cents. Nor can it be successfully contended that the bill would not apply to the private transportation of such films, for the reason that such transportation would not be interstate commerce. Some of the pictures taken by private individuals with cameras such as are described here will be in great demand by the producers, who are ready to buy such films, and such sales constitute interstate commerce.

Why, may we ask, is the commission directed to make an annual report making "recommendations to importers and producers of films and to the public regarding the educational and recreational use of motion pictures"? This is only a specimen of the paternalism evidenced by the bill. We have already shown that by directing the commission and empowering it to require amplifications and alterations to be made in the film the Government in reality becomes the producer; not, however, on the capital of the Government, but upon the capital and money of the producer.

And now, by this section 13, the commission is to recommend a course of conduct which it deems desirable and proper for importers and producers of films to follow, which recommendations, unless it is contemplated that they will ultimately carry with them the power of enforcement, are at least not desired by those at present conducting business as importers or producers. And, moreover, it is apparently contemplated that the commission shall indulge in a species of public exhortation, regarding the education and recreational use of motion pictures. Thus it will give publicity and the weight of its sanction and approval to certain films which appeal to the members of the commission, while others equally good, but which, as a matter of taste, do not appeal to the members of the commission, will be condemned by silence.

It has been frequently pointed out that the bill, as proposed, makes no provision of any kind for judicial or other review of the action of the commission. It has been pointed out that inasmuch as

the commission is made a division of the Bureau of Education in the Department of the Interior, the only review of the acts of the commission would be the supervisory type of review accorded to the heads of the various administrative departments of our Government. It is, of course, well established that an appeal is never a matter of right, but always a matter of legislative permission, which, if granted, is operative, and if withheld, does not exist. The failure to make suitable provision for the review of the acts of the commission is in reality oppressive and quite in keeping with the many other burdensome features of the bill. As a whole, the bill, if enacted, will be destructive of the industry until it can be declared invalid by the courts.

During the last 30 minutes of the debate before the committee the proponents proposed an entirely new bill. The abandonment of the old bill is, of course, an acknowledgment of the defeat of its dangerous and destructive provisions. Surely a substitute so radically different, so hastily prepared, must bear evidences of its immaturity, and the danger of its hasty enactment is evident. Moreover, since the close of the debates, the amendment to section 245, the Federal Criminal Code proposed by the Motion Picture Board of Trade, has been proposed in the House of Representatives by Judge Towner, a member of this committee. This, we submit, is all that Congress should do in this regard, and with this provision enacted into law a Federal censorship statute is wholly unnecessary.

Many of the suggestions in this new censorship bill are supposed to have emanated from the Famous Players Film Corporation, the Jesse Lasky Co., producing companies which distribute their product through the Paramount Picture Corporation, which also supported the new bill, the World Film Co., the Equitable Film Co., and the Metro Pictures Corporation.

The unexpected support of Federal censorship in any form from these companies is clearly only a shallow attempt to appear before the committee in a "holier than thou" attitude, since these companies stand alone in their position and are opposed by every reputable concern in the industry.

But the shallowness of the pretext was made manifest by the opposition of these same companies to the amendment of section 245 of the Federal Criminal Code.

If these exponents of censorship are really as virtuous and cleanly as they would have it appear, why do they fear and oppose the rigor of a provision which makes them criminals if they send an indecent film into interstate commerce? No company represented by the board of trade fears the enactment of section 245 of the Criminal Code as proposed to be amended.

Only those who wish to come as near the line of obscenity and impropriety as possible without incurring liability to heavy fine and imprisonment in the penitentiary welcome the immunity from Federal criminal prosecution which Federal censorship would afford. If, in the rush and pressure of business, or after the commission has been liberally educated in the "moral lessons" taught by some immoral plays, an improper film could be put through the Federal censorship commission, so much the better from the standpoint of those who haunt the border line of impropriety.

## III.

Assuming, without conceding, the existence of power in Congress to enact a censorship law, the enactment of any such law is wholly unnecessary.

Heretofore in dealing with the press Congress has only aided and not impeded or hampered the business of those engaged in the collection and dissemination of news.

Congress even made it a crime for any postmaster or other person employed in the Postal Service improperly to detain, delay, or destroy any newspaper or to permit any other person to do so. (Criminal Code of the United States, sec. 196.)

Certainly Congress never found it necessary to prohibit the transmission of newspapers by those publishing them, either through the mails or by common carriers, and what an absurdity it would be for Congress to pass a law prohibiting the transmission of the plates and matrices from which newspapers are printed. So it can not be either proper or necessary here to prohibit the transportation of films from one State to another when the only effort is to deal with and to regulate the exhibition of the pictures on the films wholly within the several States.

Nor in dealing with the drama has Congress thought it wise to interfere by legislation requiring the submission of manuscripts to any censor before they might be transported from one State to another, either through the mails or by the common carriers.

Instead, it has been declared that anyone who knowingly sends or receives through the mail from any common carrier any obscene or improper book, pamphlet, picture, paper, letter, writing, printing or other publication of an indecent character shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (United States Criminal Code, section 211 to 245.)

In reality, Congress cares nothing about the physical substance known as the film, either in its raw state, before it receives its negative impression, or even after that event occurs, or after the multiplication of positive prints or impressions from it.

For practical purposes, the motion picture film is harmless, so far as its ability to corrupt public morals is concerned, until the message it depicts is published by means of the screen and the projecting machine. It is no more capable of corrupting public morals in itself before publication than the Victrola or the Columbia talking machine records could be regarded as instruments of immorality, because they are capable of receiving impressions of and subsequently reproducing to the public ear an immoral discourse or song.

It results from these considerations that from a practical standpoint no motion picture film is capable of spreading immorality among the public unless the picture contained upon the film is publicly exhibited by the aid of the screen and projecting machine; and it will not be denied that the communication of the silent message of the film results from its public exhibition and not from the introduction of the physical substance of the film into the several States in interstate commerce.

The legitimate scope of congressional legislation on the subject, so far as the States are concerned, is the regulation of the transportation of the physical film, and it has no jurisdiction to deal with

the production or exhibition of the picture wholly within the several States.

In considering the expediency of proposed legislation, the legislature ought to consider the existing law, the mischief, and the remedy.

At present, the whole subject of the suppression of immoral exhibitions rests with the States and their minor political subdivisions. There is not a State, city, town or village in the United States that is without the inherent power, coupled with the ability, to suppress immoral exhibitions within their respective domains.

These local communities are the judges of what is offensive to their ideals and harmful to their morals, and hitherto these communities have not required the guardianship of Congress.

Congress has lent its aid to the suppression of the sale and exhibition of indecent books and pictures, by making it a crime to send such articles through the mail or by common carrier in interstate commerce. To this extent its legislation has been extremely beneficial and helpful.

The mischief sought to be remedied in this instance is the exhibition of indecent pictures, particularly to children. The whole argument of the proponents of the bill is that immoral pictures should not exist.

We agree, but the proponents says, "Make the exhibition of immoral films impossible by censorship," while we say, "Make it impossible by suitable provisions in the criminal law prohibiting the transportation of such films in interstate commerce, leaving it to the local communities to regulate, as they see fit, the motion picture exhibitions within their respective domains."

The following arguments have been urged by the proponents in support of the bill:

(1) Federal censorship would be a central authoritative censorship making other censorship boards in local communities unnecessary.

The answer to this argument is simple: It is not true. No State or political subdivision thereof would or could lawfully surrender the exercise of its police power to any other authority, State or National.

The enactment of the Federal censorship bill would not prevent the enactment of other censorship laws in each State in the Union, in each city, in each town, in each village; so that in the course of time, if the principle of Federal censorship is recognized, the industry would be inevitably censored out of existence. If any affirmative evidence were required to support our contention that no State would surrender the exercise of its police power, even to the National Government, we have it in the telegrams received from representatives of the governors of the States of Ohio and Kansas, which are to the effect that no such surrender would be made.

(2) It is said that Federal censorship would be so effective that no other censorship would, from a practical standpoint, be necessary. But the argument assumes that any censorship constitutes an effective method of regulating the industry.

The only excuse for any censorship is a desire to afford children extreme protection. But, if censorship is to benefit the children, each play would have to be censored from the standpoint of the child, so

that only children's pictures would thereafter be exhibited. This would destroy the industry. If this is not the type of censorship which would result from the creation of this Federal commission, the censorship would fail entirely in its purpose and would be worthless and unnecessary.

(3) The local conditions which have resulted from existing State censorships are cited as an argument in support of the bill. We urge the same argument for its defeat. We pointed out what happened to "Virtue" in New York and in Pennsylvania. The argument it presents is irrefutable.

In New York State there is no censorship which involves examination of the prepublicity type. In Pennsylvania a full-fledged censorship law exists.

In Pennsylvania the board of censors prohibited the exhibition of "Virtue" on the screen. An appeal was immediately taken to the court of common pleas and the ruling of the board of censors reversed and authority given to exhibit the picture, and the picture was exhibited in Pennsylvania.

In New York City, where the future exhibition of "Virtue" was extensively advertised, so that its character was known without the necessity of prepublic examination, the commissioner of licenses of the city of New York notified the exhibitor that the exhibitor's license would be revoked if he exhibited the picture.

The exhibitor was immediately placed upon the offensive. He secured a temporary injunction to restrain the commissioner of licenses from revoking his license; but, upon the final hearing of the injunction, and before, as we are informed, the picture was exhibited at all to the public, the temporary injunction was dissolved and the ruling of the commissioner of licenses upheld, and the picture was not exhibited in New York.

This illustrates conclusively the complete and absolute inefficiency of any censorship of the prepublicity type. It illustrates that in Pennsylvania, where the people are burdened with censorship, a questionable picture is publicly exhibited notwithstanding the prohibition of the censors, while in New York, where no prepublicity censorship exists, the picture is not shown.

No argument against censorship would be complete without a brief reference to the ludicrous manner in which it has been enforced wherever its vicious principles have been enacted into law.

While we were in attendance before the committee, we were favored by the Photo Play Magazine with the advance sheets of an article by Mr. Channing Pollock, in which the facts which demonstrate the ridiculous absurdity of censorship in practice were effectively portrayed.

Mr. Pollock said in part: Considering that it is 40 years since first she (Carmen) mouthed her mad love to the music of Bizet, Carmen might have expected the deference due old age. Beautifully filmed and beautifully acted by Geraldine Farrar, she came as a bolt from the blue to shocked and surprised boards in Ohio, Pennsylvania, and California. Her ancient kiss, that inspired the first big press-agent story, was ordered cut to 5 feet. "Just a little love, a little kiss," warbled the Buckeyes, and nothing more than a yard and two-thirds of affection came within that allowance. "All

love scenes showing embraces between males and females" were ordered measured and trimmed, leaving the cigarette maker to give her life for a purely paternal peck from the bashful bullfighter, Escamillo.

Come to think of it, however, Carmen wasn't permitted to give her life, either in Ohio or in California. A local board in the latter State objected to the killing of a woman by a man, though there is no opposition to the killing of men by women. After all, girls will be girls! It is only the male who must not be encouraged! Pennsylvania banned the little set-to between Carmen and Frasquita, and the duel between Morales and Don Jose. All this had taken place dozens of times in the opera in Philadelphia, without appreciable effect upon the police records; but apparently the censors were comforted by the reflection that no one knows what an opera is about anyway. "Camille" is forbidden in England, but there has been no ruling against "Traviata." Young persons who weep to the strains of "O Parigi, O cara" probably do not suspect themselves of sympathy with a courtesan!

Ohio prevented poor Carmen's smoking one of her own cigarettes, and, in one State or another, the majesty of the law raised the level of her décolletage, restrained her from baring the shoulder of her rival and interfered generally with her artless displays of temper and temperament. "Carmen," as amended and expurgated, must have borne a striking family resemblance to "Elsie Dinsmore."

If I have failed to keep my promise, and be "excruciatingly funny," you will admit that the censors are making it up to you. "The Scarlet Letter" was passed, after considerable argument, but no children were permitted to witness it in Chicago. To the contention that minors might read the book, answer was made that "a child of simple training and pure thoughts could read The Scarlet Letter, and, because of the purity and delicacy of its style, have no idea of its real meaning." Charming prospect! To go through Hawthorne's masterpiece from cover to cover without understanding a word of it!

At least, no "child of simple training and pure thoughts" would be likely to see in any picture what the censors seem to see. Few children are nasty-minded. A large section was cut from a photograph called "The Warning" because there was a bed in the room adjoining the scene of action. Of course, a bed could have none other than an immoral purpose. How stupid of the producer not to have exchanged this obscene piece of furniture for a denatured divan. In the picturization of a celebrated play objection was made to a title covering pantomime in which a capitalist told a woman that he would employ her husband. The title read: "I've got a proposition to make to you." It was cut. The censors couldn't imagine a business proposition.

The screen version of my own drama, "The Secret Orchard" wonderfully filmed by Mr. Lasky, was stripped of a title quoted from the Bible. There had been no addition or alteration. There were expressions of horror, too, that a man drank wine from a woman's slipper. A shaving mug might have been all right. The Pennsylvania board inveighed against what it called "a feast." If ever Fred Thompson carries out his intention of filming the Scriptures,

goodness knows what Pennsylvania will do with Belshazzar. Mr. Lasky and I carried "The Secret Orchard" to court in Philadelphia, where, to our intense surprise, the censors discovered that the first scene took place in a bagnio. Agnes and Egerton Castle had written the novel, I had written the play, a reputable management had produced it and a reputable film company had photographed it without suspecting, or finding any critic or spectator who suspected this awful truth.

"Do you mean to say," the board's attorney thundered at me, "that you do not recognize this as a brothel?"

I admitted that I didn't.

"The censors do," said the attorney.

"Which only goes to prove," I replied, "that the censors know more about brothels than I do."

In the course of the case, the board sought to establish its contention by pointing out that several men were seen to embrace women. I inquired whether there was anything to indicate that the women were not their wives. The censors hadn't thought of that. Anyway, "The Secret Orchard" was a story of seduction. "Isn't 'David Copperfield'?" asked the judge. The censors hadn't thought of that, either.

"The story of 'The Secret Orchard' can be told in seven words," I said. "It is: 'The wages of sin is death.' Do you call that immoral?"

The judge didn't, and we were permitted to show our picture in Pennsylvania.

However, another play with the same story never reached the films because manufacturers knew too well what to expect of the censors. That play was Dario Nicodemi and Michael Morton's drama of deep and pure purpose, "The Shadow," enthusiastically praised when it was produced by that arch conspirator against public morals, Charles Frohman, with Ethel Barrymore as star, at the Empire. "The Shadow" mentions an illegitimate child, and illegitimate children are barred in Ohio and Pennsylvania.

\* \* \* \* \*

Edward Sheldon's "The High Road," as presented by Mrs. Fiske, has been censored, and so has Cosmo Hamilton's "The Blindness of Virtue." The Pennsylvania board recently insisted upon reviewing that part of a film which showed nothing but an American flag waving in the breeze. If the American flag is to be censored, what will become of George Cohan?

A certain melodramatic picture disclosed the execution of plans for an assassination in an isolated house. To complete the isolation and prevent the victim's summoning help a villain cut the telephone wires. There was no objection to the assassination, but the film was held up because it might inspire small boys to tamper with wires.

Am I carrying out my agreement to be "excruciatingly funny"?

The farce "Bottle's Baby" was estopped in Philadelphia because a man got a letter from his wife and burned it. Tearing the letter would have been permissible, said the censors, but burning showed contempt of the marital relation. Charles Kenyon's remarkable play "Kindling," dealing with no sex problem but with poverty and the race, was held up because a mother was shown making clothes

for her unborn child. This child was not illegitimate; it was about to be born with the greatest possible deference to the censors. What, then, was wrong with the exposition of a mother engaged in one of the most sacred and beautiful labors of motherhood? You'll never guess! "The 'movies' are patronized by thousands of children who believe that babies are brought by the stork, and it would be criminal to un deceive them!"

Honest.

Dramatic art must encourage the infantile notion that babies are found in cabbage patches or brought by storks, or it is dangerous and pernicious! God's beautiful way of perpetuating the race is quite too immoral. And, immoral or not, dramatic art must fit itself to the intellectual level of children 8 years old or the Pennsylvania Board of Motion Picture Censors will know the reason why!

In this case, the head of the exchange in Philadelphia, who had a sense of humor, argued that babies, even if brought by storks, required clothing, but the suggestion was ignored. Then he asked for permission to let the child go through the play without clothing, but his request was denied.

Why go on? Here, in a dozen examples of the wisdom of motion-picture censors, we have shown that among the dreadful and forbidden things of life are baby clothes, clipped telephone wires, beds, cigarettes, kisses, maternity, combat, bare shoulders, temper, seduction, Hawthorne, business propositions, sin, sex and slippers, illegitimacy, burning letters, birth, death, and the Stars and Stripes. There isn't much left to an author, is there?

The condition ceases to be funny when one reflects that these restrictions are put upon an art in its infancy, a new and ambitious art. One-tenth their number would have murdered literature. Bar seduction and violence and see how many of the great books of all time could ever have been written or published. Or the little ones or the scientific ones or the simple ones for juveniles. On my table lie six or eight of these. "Bird Life." Violence! "What a Young Girl Should Know." Birth! "The Children's 'Faust.'" Seduction! Even a first reader when opened discloses a picture of "Sow with pigs," and if that isn't maternity I should like to know what is.

Just think what must happen to poor old Bill Shakespeare if ever he gets into the "movies"! Ohio would never "stand for" the unmanly conduct of Juliet, or Kansas for the marriage of a colored man to a white woman in "Othello!" What's the good of censors if they will permit street brawls between the Montagues and the Capulets, and whetting of knives that are to cut pounds of flesh from benevolent merchants, and murders of little princes in the Tower? Not to speak of the adulterous passion of a lady named Cleopatra for a married man named Antony! Such things don't happen in our neighborhood, and, if they do, the less said about it the better! Presumably, this immoral melodrama would inspire in the censors the same feeling it inspired in those Victorian spinsters, who, when the curtain had descended upon this saturnalia of passion and death, merely remarked, "How different from the home life of our own dear Queen!"

(4) One of the members of the committee indicated that he had in mind the possible advisability of the classification of motion pictures—some for adults and some for children; and it was suggested

that such a segregation might be desirable. Our response to the suggestion is that that is one of the matters which, if left alone, will be worked out satisfactorily, first, by the parents of the children who attend motion picture theaters, and second, by the exhibitors themselves, and finally by the local authorities. Certainly, this can not be a proper matter for Congressional enactment.

The testimony of the exhibitors is that the present programs used by exhibitors throughout the country involve the presentation of about eight reels of film at each performance. A reel contains 1,000 feet of film and is generally shown in about 15 minutes time. The industry has developed so that to-day a program is generally composed of three one-reel films, or one of two reels and one of one reel, and what is known in the trade as a feature production, consisting of five or more reels. This so-called feature production is generally an elaborate photo-play, in which the exhibitors tell us the children have little, if any interest. They are wearied by the long exhibition, the plot and theme of which, in the vast majority of instances, they are unable to understand; and their preference is to see the short one-reel performance. And the testimony is that the public adjusts itself to the nature of these exhibitions, so that when the feature plays begin many of the children leave the theater. We conclude, therefore, that there can be no necessity for congressional legislation for this reason.

(5) It is said that the repeated depiction of crime in the motion pictures incites to the commission of crime. We remind the committee that we know of no motion picture which, in exhibiting the commission of crime, fails to exhibit its rigorous punishment. Whether such an exhibition teaches a desired lesson, or whether it may tend to incite weak-minded persons to the commission of crime, we are unable to determine.

We believe that this question, like the others, can only be satisfactorily solved by the local communities in which the exhibitions occur. It should not be supposed that the exhibition of motion pictures is forced upon an unwilling public. There are no exhibitions which must be seen by the public. The public are required to pay for the privilege of seeing them. If the exhibit is distasteful to the public it is certain that it will not pay its money only to be displeased by the exhibition. So the whole matter of proposed regulation of what shall and what shall not be seen, in so far as it deals with matters of taste, sentiment, and opinion, is a matter with which no legislative body can have legitimate concern.

(6) It has been repeatedly asked during the hearing whether it is proper for a commission consisting of five human beings to be vested with authority to sit in judgment upon the morals of 100,000,000 of people. We answer the suggestion emphatically in the negative. We have seen that the subject matter before the proposed commission is one wholly of opinion, involving taste, the exercise of judgment, and other mental qualities which one man has no inherent right to exercise for another; and assuming, without conceding, that it would be physically possible for five men competently to censor all of the motion pictures produced in this country, we confidently assert that no such principle should be recognized or made operative by Congress.

(7) The proponents of the bill maintain that the motion picture is not entitled to the constitutional guarantee of freedom of speech and the freedom of the press; nor are we, according to them, entitled to the same freedom previously enjoyed in this country in the exhibition of the drama. The status of the motion picture should be definitely fixed. If we are not to be regarded as like the public press, at least in so far as the news motion pictures and the serial motion pictures are concerned, to what may this class of pictures be compared, and if the photo play is not like the ordinary drama, to what may it be compared? In the application of these analogies it should result that Congress ought to decline to assume the censorship of the news picture or of the serial picture, just as it ought not to assume to censor the public press; and it should decline to censor the pictorial drama, just as it has heretofore declined to assume to censor the living drama on the stage, leaving both subjects where they properly belong—to each local community.

(8) No response to the argument of the proponents would be complete which overlooked that side of the controversy presented so ably by the women who appeared before the committee on the evening of January 15.

But the whole argument is summarized in the contention that the morals of the children in the several States require congressional protection in the form of Federal censorship. The record shows, as a matter of fact, there is no such necessity and that other remedies are at hand which are lawful and are infinitely more effective to accomplish the desired result. Complaint was made specifically by these proponents of the bill that the unrestrained admission of children to motion-picture theaters was harmful and undesirable. To this every person in the industry, so far as we know, agrees. But the correction of this abuse, as we have said, rests not with Congress but with the parents of the children, the exhibitors, and the local authorities. The substance of the argument presented showed that in reality while the terms "immoral picture," "indecent picture," "impure picture" were frequently used, what these proponents of the bill really wished to control were matters entirely within the domain of opinion, taste, and individual judgment. The sentiments were freely expressed by these persons that there were too many drinking scenes, that there were too many scenes of adventure and hair-breadth escapes, and that the baneful cigarette was too much in evidence.

We were told that the picture should be elevated, so that it would teach lessons in geography, in constructive architecture, the building of bridges, and other desirable objects, while the drama and literature were to be wholly sacrificed for the benefit of the comparatively small attendance of children. And yet, even the representation of historical events was subject to adverse criticism. The picture known as "The Birth of a Nation," was particularly criticized, although the results of the exhibition of this picture show that in particular communities it has been excluded from exhibition, while in other sections of the country its exhibition has been permitted.

It is not claimed that the picture displayed anything of an immoral nature or anything which was indecent. It did record historical occurrences. Some say it tended to create race prejudice. If this



picture were submitted to the proposed Federal commission, and the commission were opposed to its exhibition, that portion of the public who wished to see a pictorial representation of these historical events would be deprived of the educational benefit to be derived from its exhibition for no useful purpose whatever, and we would have a striking illustration of the inability of this small commission properly to determine for the entire country whether or not a particular picture which is admittedly neither indecent nor immoral should be seen by the public at large.

(9) Dr. Chase, in his argument, said, among other things, that the proposed bill was an exercise of the licensing power of the Government, and he pointed out that doctors were required to be licensed, and that pharmacists, plumbers, and many others were required to be licensed, from which he inferred that those engaged in the production of motion-picture films, or, to put it more accurately, the films themselves, should be the subject of a Federal license. But the learned doctor overlooked the fact that the Federal Government has no licensing power in connection with matters involving the exercise of the police power by the several States.

While it is true that doctors, pharmacists, plumbers, and others are required to take out occupation licenses, it is not true that one of these persons secures any such permit from the National Government. These matters are, of course, regulated entirely by local communities.

So it is with the exhibitor of motion pictures. He is licensed in every local community in which he transacts his business, and we know of no community which does not reserve the right to revoke and cancel the license of an exhibitor who displays and exhibits to the public in any shape, manner, or form any picture which is indecent or immoral. Let us point out at this juncture that in many of the cities the investment of the exhibitor in his theater represents many thousands of dollars. No such person can afford to risk the revocation of his license because of the character of the exhibition which he has permitted his patrons to see.

The learned doctor also argues, in substance, that the prevention of crime is better than its punishment. To this we cheerfully agree. He tells us that as opponents of the bill we maintain that we should be permitted to commit a crime before anything is done to prevent it. It is said that we advocate the right of the incendiary to apply the lighted match to the tenement house. We are told that we advocate authority in the assassin to plunge his weapon into the heart of his victim, all in order that the liberty of the citizen may not be impaired by the prevention of crime before it occurs, and in order that it may be punished thereafter. But the learned doctor is wrong in his contentions as it is easily demonstrated. In every instance where any legislature has declared the commission of an act to be a crime, the legislature has also declared that an attempt to commit that crime is equally criminal. If, therefore, the incendiary is found with the lighted match in his hand in the act of attempting to commit the crime of arson, he is indicted and punished, generally in the same degree as he would be had he accomplished his purpose.

So it is with the long list of other crimes suggested, and so it is with reference to the exhibition of indecent pictures.

Exhibition necessarily contemplates public display. When the subject matter of the picture is publicly announced by the exhibitor, its exhibition for the purposes of censorship is wholly unnecessary, because its substance is declared publicly and known. So it was with the picture "Virtue." Its advertisement disclosed its character. Based upon these advertisements, in a jurisdiction in which the pre-public examination of motion pictures is unknown, the exhibition was suppressed before it had been begun, and the picture was not exhibited to the public.

The learned doctor's statement that even now a bill has already been drawn for submission to the Legislature of the State of New York for the purpose of creating in that State a censorship law demonstrates the fanatical energy with which the proponents of the bill are pursuing and will continue to pursue this harmless industry. His suggestion that if Congress passes the bill here proposed the Legislature of the State of New York would then be invited to provide that its board of censors should accept the rulings of the Federal board, is palpably absurd. Its own statement is a convincing demonstration that it is based upon optimism unsupported by any facts.

Again, the learned doctor says that the act does not contemplate the censorship of all films, but only of indecent films, as well as those described in section 5 of the bill; but this is an obvious error, for the provision of the act is that no film shall be transported in interstate commerce unless it has been licensed by the commission, and of course no license issues until each film has been examined and approved. Thus, the industry is required to submit all of its films, including those which are admittedly proper, in order that the commission may be permitted to institute a rigorous search for one or more films of an improper character; and the manufacturer of productions which are exclusively and admittedly good bears the expense and odium of censorship intended primarily for the wrongdoer.

But an efficient remedy for any existing evil is at hand. So far as Congress is concerned, let it amend section 245 of the Federal Criminal Code, by inserting the words "motion picture film," therein, so that by no possibility could it be successfully contended that the section, as amended, is still inapplicable to indecent and improper motion picture films.

The seriousness of the offense and of the punishment prescribed therefor by section 245 of the Federal Code should not be forgotten. The offender is subject to a fine of not more than \$5,000 or to imprisonment for not more than five years, or both punishments. The punishment falls upon the person who knowingly sends an improper film and on the person who knowingly receives it. Such an enactment would be a highly commendable exercise of congressional power. It would be a frank, open, and honest exercise of the congressional power to regulate commerce, the existence of which is undisputed. It would not be a usurpation of the police power of the several States, and we respectfully submit that the integrity and good faith of the industry which, as a whole, advises Congress to pass a drastic criminal statute penalizing specific wrongdoing, can not be successfully or intelligently questioned.

Let the State and municipal authorities proceed with their respective regulations of the admission of children under specified ages to the motion pictures.

There are to-day many such ordinances in existence, and in every local community where, in the judgment of the people who compose it, such a regulation is desirable or proper, it can readily be enacted.

Those who exhibit pictures could, by appropriate local regulation, be required to announce honestly and accurately the substance or the character of the exhibition they conduct, in order that no person could by any possibility be induced to attend the performance and see an exhibition of a picture which, in the judgment of the individual, would be harmful to him or to the morals of any child for which that person is responsible.

Finally, we say let there be a cessation of governmental interference with the duties and obligations of parents. The responsibility for the welfare of the child rests primarily with the parents, and that responsibility can not successfully be assumed by Congress, nor can the burden be taken from the shoulders of the parents and placed upon those of any branch of the Government.

For all the reasons given, we respectfully urge the defeat of the bill.

(Respectfully submitted by Motion Picture Board of Trade of America (Inc.), 18 East Forty-first Street, New York City. William M. Seabury, of the New York bar, general counsel. January 26, 1916.)

#### APPENDIX.

#### H. R. 456.

A BILL, To create a new division of the Bureau of Education, to be known as the Federal motion-picture commission, and defining its powers and duties.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a Federal motion picture commission be, and the same is hereby, created, to be composed of five commissioners appointed by the President, one of whom shall be designated as chairman. The commission shall be a division of the Bureau of Education in the Department of the Interior.

Sec. 2. That each commissioner shall hold office for six years, except that when the commission is first constituted two commissioners shall be appointed for two years, two for four years, and one for six years. Each commissioner shall thereafter be appointed for a full term of six years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The salary of the chairman shall be \$4,000 a year and of each other commissioner \$3,500 a year.

Sec. 3. That the commission may appoint advisory commissioners to advise and assist in the examination and censoring of films, who shall hold office during the pleasure of the commission and serve without compensation. No person shall be appointed an advisory commissioner who, directly or indirectly, has any pecuniary interest in the exhibition of motion pictures, or in any film exchange, or firm, or corporation engaged in manufacturing motion-picture films.

Sec. 4. That the commission may appoint deputy commissioners and other assistants and fix the compensation of each. Actual and necessary traveling expenses shall be allowed to those who travel on the business of the commission. The commission shall be provided with necessary office furniture, stationery, supplies, projecting machines, and appliances necessary for inspection of films and for manufacture of film seals: *Provided, however,* That the entire

cost of the commission, including salaries and all other expenses, except the cost of manufacturing seals, which is otherwise provided for, shall not exceed \$40,000 a year.

Sec. 5. That the commission shall license every film submitted to it and intended for entrance into interstate commerce, unless it finds that such film is obscene, indecent, immoral, inhuman, or depicts a bull fight or a prize fight, or is of such character that its exhibition would tend to impair the health or corrupt the morals of children or adults or incite to crime. The commission may license any film, subject to such excisions, amplifications, or alterations as the commission may direct and require to be made. The commission may, by unanimous vote, withdraw any license at any time for cause shown.

Sec. 6. That the commission shall adopt an appropriate seal which shall be affixed, in such manner as the commission may direct, to every film approved by it. Such seal shall not be attached to any film which has been approved by the commission subject to revision until after the required changes have been made, a record of which shall be kept, and portions objected to shall be delivered into the possession of the commission.

Sec. 7. That when any film has been approved the commission shall issue a certificate in the form adopted by the commission. These certificates shall describe the film and shall bear a serial number, and shall state its title, the day upon which it was approved by the commission, and the number of linear feet contained therein.

Sec. 8. That the commission may, if it has licensed a film, issue a seal and certificate for each duplicate thereof without an examination of such duplicate, upon the payment of the license fee hereinafter provided.

Sec. 9. That no copyright shall be issued for any film which has not previously the certificate and seal of this commission.

Sec. 10. That no person, firm, or corporation shall carry or transport any film from one State into another State of the United States, or from any foreign country into any State of the United States, unless such film has been licensed by the commission and a true copy of the certificate accompanies it: *Provided,* That this section shall not apply to films consigned to this commission.

Sec. 11. That no motion-picture film which has not been licensed by the commission and which does not bear its seal and is not accompanied by its certificate shall be exhibited in any licensed place of amusement for pay or in connection with any business in the District of Columbia, or in any of the Territories of the United States, or any place under the jurisdiction of the United States.

Sec. 12. That a fee of \$1 shall be charged for the examination by the commission of each film of one thousand feet or less, and 50 cents for each film which is a duplicate of any film which has been licensed. Any change or alteration in any picture on the film after it has been licensed, except the elimination of a part, shall be a violation of this Act, and shall also void the certificate and seal of such film.

Sec. 13. That the commission shall annually, on or before the first day of January in each year, submit a written report to the United States Commissioner of Education. In this report, and by other means, the commission shall make recommendations to importers and producers of films and to the public regarding the educational and recreational use of motion pictures.

Sec. 14. That the penalty for violation of this Act shall be a fine of not more than \$500 or imprisonment not more than one year, or both, in the discretion of the court, and the films unlawfully changed, exhibited, or transported shall be confiscated.

Sec. 15. That the commission shall have power to charge, in addition to the fee for each film, such a sum as is necessary to pay the expense of manufacturing the seals.

Sec. 16. That the fees received by the commission shall be paid monthly into the Treasury of the United States, except the money collected for the purpose of defraying the expense of manufacturing the seal, which the commission shall retain and expend in payment of such manufacturing expense.

Sec. 17. That three months after the commission has begun to license motion pictures, and at any time thereafter, the commission shall have power to reduce the fees to such a sum as will produce no larger income than is necessary to pay the entire cost of the commission, including salaries and all other expenses.

Sec. 18. That this Act shall take effect immediately, except sections nine, ten, and eleven, which sections shall take effect nine months after date of the approval of this Act.



LAWS REGULATING THE CENSORSHIP AND EXHIBITION OF MOTION PICTURES IN OHIO, AS AMENDED, EFFECTIVE AUGUST TWENTY-SEVENTH, NINETEEN HUNDRED AND FIFTEEN.

*Be it enacted by the General Assembly of the State of Ohio:*

Section 871-46.

SECTION 1. There is created, under the authority and supervision of the industrial commission of Ohio, a board of censors of motion-picture films. Upon the taking effect of this Act, the industrial commission shall appoint, with the approval of the governor, three persons, one for one year, one for two years, and one for three years, who shall constitute such board. Upon the expiration of the term of each member so appointed a successor shall be appointed in like manner for a term of three years.

Section 871-47.

SEC. 2. The industrial commission shall furnish the board of censors with suitable office rooms and with sufficient equipment to properly carry out the provisions of this Act. The board of censors may organize by electing one of its members as president. The secretary of the industrial commission shall act as secretary of the board. Each member of the board of censors shall receive an annual salary of \$1,500 per year. Such salary and expenses shall in no case exceed the fees paid to the Ohio board of censors for examination and approval of motion-picture films.

The members of the board shall be considered as employees of the industrial commission and shall be paid as other employees of such commission are paid. The industrial commission shall appoint such other assistants as may be necessary to carry on the work of the board.

SEC. 871-48. It shall be the duty of the board of censors to examine and censor as herein provided, all motion-picture films to be publicly exhibited and displayed in the State of Ohio, and when necessary the board of censors may designate certain of the assistants furnished to them by the industrial commission, who under the direction and supervision of the board may examine motion-picture films. Such films shall be submitted to the board and passed and approved by the board before they shall be delivered to the exhibitor for exhibition. The board shall charge a fee of \$1 for each reel of film to be censored which does not exceed 1,000 linear feet, and \$1 for each additional 1,000 linear feet or fractional part thereof. All moneys so received shall be paid each week into the State treasury to the credit of the general-revenue fund.

SEC. 871-49. Only such films as are in the judgment and discretion of the board of censors of a moral, educational, or amusing and harmless character shall be passed and approved by such board. When film has been censored by the board of censors a certificate showing the approval or rejection of such film shall be issued to the party submitting the film. When a film is passed and approved by the board of censors such film shall be given an approval number which shall be shown on the certificate issued by such board of censors to the party submitting the film. Such certificate shall also show the title of such film and all eliminations ordered from such film by the board of censors. For each film so approved there shall also be issued by the board of censors an official leader or stamp of approval of not less than five feet in length bearing the words "Approved by the Ohio Board of Censors" and the number assigned to such film on the certificate of approval. Such official leader or stamp of approval shall also contain an outlined map of the State of Ohio with the great seal of the State of Ohio printed thereon. The board of censors shall be authorized to recall any film for recensoring or to revoke any certificate permitting the exhibition of any film in the State of Ohio, whenever in the judgment of such board the public welfare requires it. Before any motion-picture film shall be publicly exhibited all eliminations ordered by the board shall have been made by the person or persons loaning, renting, or leasing such film or films to the exhibitor for exhibition, and there shall be projected upon the screen the design of the official leader or stamp of approval of not less than three feet in length, issued by the board for such film.

Section 871-50.

SEC. 5. The board of censors may work in conjunction with any censor board or boards of legal status of other States as a censor congress and the action of such congress in approving or rejecting films shall be considered as the action of the board and all films passed, approved, stamped, and numbered by

such congress, when the fees therefor have been paid to the Ohio board, shall be considered approved by such board.

Section 871-51.

SEC. 6. Ninety days after this act shall take effect no films may be publicly shown or exhibited within the State of Ohio unless they have been passed and approved by the board or the censor congress and stamped and numbered by such board, or congress, as provided for herein.

SEC. 871-52. Any person, firm, or corporation who shall publicly exhibit or show any motion picture within the State of Ohio unless it shall have been passed and approved by the Ohio board of censors or the congress of censors shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars, or imprisoned not less than thirty days nor more than one year, or both, for each offense. Any person, firm, or corporation who shall loan, rent, or lease any film or films to any exhibitor or other person for public exhibition in the State of Ohio before the eliminations ordered by the Ohio board of censors or congress of censors have been made shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars, or imprisoned not less than thirty days nor more than one year, or both, for each offense. Any person, firm, or corporation who shall publicly exhibit or show any motion picture within the State of Ohio without having first projected upon the screen the design of the official leader or stamp of approval of not less than three feet in length, assigned to such film as shown on the certificate issued by the board of censors shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars, or imprisoned not less than thirty days nor more than one year, or both for each offense. Any person, firm, or corporation who shall publicly exhibit or show any motion picture within the State of Ohio that contains parts or sections that have been ordered eliminated by the Ohio board of censors or congress of censors, or shall add any part or parts to any motion picture after the same has been censored and approved by the Ohio board of censors or congress of censors, and shall rent or lease such motion picture for public exhibition, or shall publicly exhibit any motion picture containing any part or parts added after such motion picture has been censored and approved by the Ohio board of censors or congress of censors shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars, or imprisoned not less than thirty days nor more than one year, or both for each offense.

SEC. 871-52a. Any person or agent, employee, or officer of a corporation or firm who shall counterfeit such hereinbefore described official leader or stamp of approval or use, or have in his possession such a counterfeit leader or any similar designation not issued by the board of censors, shall, upon conviction thereof, be fined not less than one hundred dollars nor more than three hundred dollars, or be imprisoned not less than thirty days nor more than one year, or both, for each offense.

SEC. 871-52b. A justice of the peace, mayor, or police judge shall have final jurisdiction within his county in a prosecution for a violation of any provision of the laws of Ohio relating to the regulation and censoring of motion-picture films.

Section 871-53.

SECTION 8. Any person in interest being dissatisfied with any order of such board shall have same rights and remedies as to filing a petition for hearing on the reasonableness and lawfulness of any order of such board or to set aside, vacate, or amend any order of such board as is provided in the case of persons dissatisfied with the orders of the industrial commission.

NOTE.—The foregoing sections 871-46, 871-47, 871-50, 871-51, and 871-53 remain the same as passed April 16, 1913.

Sections 871-48, 871-49, 871-52, 871-52a, and 871-52b are the same as amended and supplemented, passed by the legislature May 19, 1915, and approved by the governor May 25, 1915.

## CENSORSHIP LAW OF KANSAS.

## CHAPTER 294.—CONCERNING MOVING-PICTURE FILMS OR REELS—STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO EXAMINE.

Senate bill No. 367.

AN ACT Regulating the exhibiting or using of moving-picture films or reels; providing and regulating the examination and approval of moving-picture films and reels, and fixing penalties for the violation of this act; and making an appropriation for clerical help to carry this act into effect.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That on and after April 1, 1913, it shall be unlawful for any person, firm, or corporation to exhibit or use any moving-picture film or reel unless the said film or reel shall have been examined and approved by the State superintendent of public instruction, as hereinafter provided for: *Provided*, That nothing in this act shall apply to moving-picture films or reels used exclusively in institutions of learning in Kansas.

SEC. 2. In addition to the duties now imposed upon the State superintendent of public instruction, it shall be his duty to examine all moving-picture films or reels intended for exhibition in this State, and approve such as he shall find to be moral and instructive, and to withhold his approval from such as tend to debase or corrupt the morals. Upon such moving-picture films or reels examined by him, and which shall be approved by him, there shall be stamped or written a certificate signed by him showing that such picture has been examined and approved by him, giving the date of such approval.

SEC. 3. The said superintendent of public instruction shall keep an accurate record of all examinations made by him and the date thereof, and by whom presented for examination, and noting such picture as shall be approved and such as shall not have been approved, and briefly stating his reasons for withholding his approval of such as are not approved.

SEC. 4. For each examination made by said officer he shall receive the sum of two dollars for each moving-picture film or reel. No picture or reel shall be examined until such fee shall have been paid to him, and all such fees shall be paid by him on the last day of each quarter to the State treasurer and by said State treasurer credited to the general revenue fund; provided that the treasurer shall issue receipts for such fees in triplicate, one to the State auditor, one to the State superintendent, and one to be kept by him in his office: *Provided*, That for good and sufficient reasons shown, the governor may authorize the employment by the superintendent of public instruction, one or more additional clerks in his office, as may be necessary, at a per diem not to exceed three dollars per day for each day actually employed, which per diem shall be paid out of the general revenue fund on warrants duly issued and payable in the same manner as other clerks in said office are paid.

SEC. 5. That the State superintendent of public instruction shall have general power and authority to supervise and regulate the display of all moving-picture films or reels in all places of amusement or elsewhere within the State. Said power and authority shall include the power to inquire into and investigate and to have displayed for his benefit, to aid him in his investigation, the moving-picture films or reels which are intended to be displayed, and said State superintendent of public instruction shall approve such moving-picture films or reels as shall be moral and proper and disapprove such moving-picture films or reels as are sacrilegious, obscene, indecent, or immoral, or such as tend to corrupt the morals; *Provided*, however, in the case he should disapprove of any moving-picture film or reel, the person, firm, or corporation offering the same for examination may have the same examined by a commission consisting of the governor, attorney general, and secretary of state, who shall examine said reel or film, and, if they, or a majority of them, shall find the same is fit for exhibition, on their order the said superintendent of public instruction shall indorse his approval thereon.

SEC. 6. It shall be the duty of every person, firm, or corporation intending to sell, rent, or exhibit any moving-picture film or reel within this State to furnish to said superintendent of public instruction, as he may require, a description of said moving-picture film or reel, describing the scenes and purposes of any film or reel and to exhibit and display for his examination and approval or disapproval any such film or reel.

SEC. 7. Any person, firm, or corporation exhibiting or permitting to be exhibited any unapproved moving-picture film or reel shall be guilty of a mis-

demeanor and shall be fined not less than twenty-five dollars nor more than one hundred dollars for the first offense and not less than one hundred dollars for each subsequent offense. Each unapproved moving-picture film or reel exhibited, and each day the same shall be exhibited, shall constitute a separate offense.

SEC. 8. All laws and parts of laws so far as they conflict herewith are hereby repealed.

SEC. 9. This act shall take effect and be in force on and after the first day of April, 1913, and its publication in the official state paper.

(Approved March 13, 1913. Published in official state paper March 22, 1913.)

## CENSORSHIP LAW OF PENNSYLVANIA.

No. 239.

AN ACT Relating to motion-picture films, reels, or stereoscopic views or slides; providing a system of examination, approval, and regulation thereof, and of the banners, posters, and other like advertising matter used in connection therewith; creating the board of censors; and providing penalties for the violation of this act.

## DEFINITIONS.

SECTION 1. Be it enacted, &c., That the word "film" used in this act means what is usually known as a motion-picture film.

The word "view" used in this act means what is usually known as a stereoscopic view or slide.

The word "person" includes an association, copartnership, or a corporation.

## USE OF FILMS, REELS, OR VIEWS PROHIBITED.

SEC. 2. It shall be unlawful to sell, lease, lend, exhibit, or use any motion-picture film, reel, or view in Pennsylvania, unless the said film, reel, or view has been submitted by the exchange, owner, or lessee of the film, reel, or view, and duly approved by the Pennsylvania State Board of Censors, hereinafter in this act called the board.

## BOARD OF CENSORS.

SEC. 3. The board shall consist of three residents and citizens of Pennsylvania, two males and one female, well qualified by education and experience to act as censors under this act. One male member of the board shall be chairman, the female member shall be vice chairman, and one male member shall be secretary. They shall be appointed by the governor for terms of three years, two years, and one year, respectively; the respective terms to be designated by the governor.

SEC. 4. A vacancy in the membership of the board shall be filled for the unexpired term by the governor. A vacancy shall not impair the right and duty of the remaining members to perform all the functions of the board.

## SEAL.

SEC. 5. The board shall procure and use an official seal, which shall contain the words, "Pennsylvania State Board of Censors," together with such design engraved thereon as the board may prescribe.

## APPROVALS BY BOARD.

SEC. 6. The board shall examine or supervise the examinations of all films, reels, or views to be exhibited or used in Pennsylvania; and shall approve such films, reels, or views which are moral and proper; and shall disapprove such as are sacrilegious, obscene, indecent, or immoral, or such as tend, in the judgment of the board, to debase or corrupt morals. This section shall not apply to announcement or advertising slides.

## STAMPING FILMS, REELS, AND VIEWS.

Sec. 7. Upon each film, reel, or view which has been approved by the board there shall be furnished and stamped by the board the following certificate or statement:

Approved by  
Pennsylvania State Board  
of Censors,

and shall also furnish a certificate in writing to the same effect, which certificate shall be exhibited to any member of the board or employee thereof upon demand of the holder thereof.

In the case of motion pictures such statement shall be shown on the screen to the extent of approximately four feet of film.

In the case of slides or views each set shall have at least two slides or views shown with a similar statement.

## RECORD OF EXAMINATIONS.

Sec. 8. The board shall keep a record of all examinations made by it of films, reels, or views, noting on the record all films, reels, or views which have been approved and those which have not been approved, with the reason for such disapproval.

## REPORT.

Sec. 9. The board shall report in writing annually to the governor on or after the first day of November of each year. The report shall show:

1. A record of its meetings and a summary of its proceedings during the year immediately preceding the date of the report.
2. The results of all examinations of films, reels, or views.
3. A detailed statement of all prosecutions for violation of this act.
4. A detailed and itemized statement of all expenditures made by or on behalf of the board.
5. Such other information as the board may deem necessary or useful in explanation of the operations of the board.
6. Such other information as shall be requested by the governor.

## OATH AND BOND.

Sec. 10. The chairman, vice chairman, and secretary shall, before assuming the duties of their respective offices, take and subscribe the oath prescribed by the constitution of Pennsylvania, and shall enter into bonds to the Commonwealth in the sum of three thousand dollars, two thousand five hundred dollars, and two thousand four hundred dollars, respectively, conditioned for the faithful performance of their duties.

## SALARIES.

Sec. 11. The chairman shall receive an annual salary of three thousand dollars, the vice chairman an annual salary of two thousand five hundred dollars, and the secretary an annual salary of two thousand four hundred dollars. The salaries shall be payable monthly.

## EXPENSES.

Sec. 12. Each member and employee of the board shall be allowed all expenses of whatsoever nature actually and necessarily incurred by him or her in carrying out the purposes of this act.

## EMPLOYEES.

Sec. 13. The chairman shall appoint, with the approval of the governor, the following employees: One chief clerk, at a salary of eighteen hundred dollars; one assistant clerk, at a salary of fifteen hundred dollars; one assistant clerk, at a salary of twelve hundred dollars; two stenographers and typewriters, at salaries of one thousand dollars each; two stenographers and typewriters, at salaries of seven hundred and twenty dollars each; one chief inspector, at a

salary of fifteen hundred dollars; three inspectors, at salaries of fourteen hundred dollars each; three inspectors, at salaries of twelve hundred dollars each; one operator, who shall be an electrician, at a salary of fourteen hundred dollars; two operators, at salaries of twelve hundred dollars each; one operator, at a salary of one thousand dollars; two messengers, at salaries of seven hundred and twenty dollars each; one assistant operator or patcher, at a salary of six hundred dollars; one assistant patcher, at a salary of four hundred and eighty dollars. The salaries provided for above shall be annual, and payable monthly.

In addition to the employees enumerated above, the chairman may, with the approval of the governor, appoint such additional employees as the work of the board may necessarily require. The salaries of such additional employees shall not exceed, in the aggregate, the sum of five thousand dollars annually.

## OFFICES.

Sec. 14. The board of commissioners of public grounds and buildings shall provide adequate offices for the board in Harrisburg, and in such other cities of the Commonwealth as the board may require in carrying out the intent and provisions of this act. Adequate projecting or inspecting-rooms shall be provided in Philadelphia and maintained by the board.

## SUPPLIES.

Sec. 15. Upon requisition of the board, the board of commissioners of public grounds and buildings shall furnish to the board all furniture, books, stationery, supplies, machines, and paraphernalia necessary in the work of the board.

## PRINTING AND BINDING.

Sec. 16. The printing and binding necessary for the proper performance of the duties of the board, or the proper preservation of the records of the board, including the printing of two thousand copies of the annual report and the binding thereof, shall be done by the State printer upon order of the superintendent of public printing and binding, upon requisition of the board.

## FEES.

Sec. 17. For the examination of each film, reel, or set of views of one thousand two hundred linear feet, or less, the board shall receive, in advance, a fee of one dollar, and one dollar for each duplicate or print thereof, which must be applied for at the same time and by the same person.

## FEES AND FINES.

Sec. 18. All fees received by the board and all fines imposed for violation of this act shall be, by the board, paid into the State treasury.

Sec. 19. The money necessary to carry out the purpose of this act shall be appropriated by the general assembly to the board, biennially, as an item in the general appropriation bill.

## REGULATIONS OF EXHIBITIONS.

Sec. 20. Any member or employee of the board may enter any place where films, reels, or views are exhibited; and such member or employee is hereby empowered and authorized to prevent the display or exhibition of any film, reel, or view which has not been duly approved by the board.

## REGULATION OF BANNERS, POSTERS, AND ADVERTISING MATTER.

Sec. 21. No banner, poster, or other like advertising matter shall contain anything that is immoral or improper. A copy of such banner and poster shall be submitted to the board.

## RULES.

Sec. 22. This act shall be enforced by the board. In carrying out and enforcing the purposes of this act, it may adopt such reasonable rules as it

may deem necessary. Such rules shall not be inconsistent with the laws of Pennsylvania.

Sec. 23. All disbursements of such a nature as to make it impracticable for the board to file, with the auditor general, itemized receipts or vouchers prior to the advance by the accounting officers of funds sufficient to meet such expense shall be paid out of money specifically appropriated for that purpose, in the manner provided by an act entitled "An act prescribing a method for disbursing and accounting for certain appropriations to the departments, bureaus, commissions, and other branches of the State government," approved April twenty-third, anno Domini one thousand nine hundred and nine.

#### DUTIES OF PERSONS WHO SELL, LEASE, EXHIBIT, OR USE FILMS, REELS, OR VIEWS.

Sec. 24. Every person intending to sell, lease, exhibit, or use any film, reel, or view in Pennsylvania, shall furnish the board, when the application for approval is made, a description of the film, reel, or view to be exhibited, sold, or leased, and the purposes thereof; and shall submit the film, reel, or view to the board for examination; and shall also furnish a statement or affidavit that the duplicate film, reel, or view is an exact copy of the original film, reel, or view, as submitted for examination to the board; and that all eliminations, changes, or rejections, made or required by the board in the original film, reel, or view, has been or will be made in the duplicate.

#### INTERFERENCE WITH EMPLOYEES OF BOARD.

Sec. 25. It shall be unlawful for any person to hinder or interfere in any manner with any member or employee of the board while performing any duties in carrying out the intent or provisions of this act.

#### REEXAMINATION AND APPEAL.

Sec. 26. If any elimination or disapproval of a film, reel, or view is ordered by the board, the person submitting such film, reel, or view for examination will receive immediate notice of such elimination or disapproval, and, if appealed from, such film, reel, or view will be promptly reexamined, in the presence of such person, by two or more members of the board, and the same finally approved or disapproved promptly after such reexamination, with the right of appeal from the decision of the board to the court of common pleas of the proper county.

#### PENALTIES.

Sec. 27. Any person who violates any of the provisions of this act, and is convicted thereof summarily before any alderman, magistrate, or justice of the peace, shall be sentenced to pay a fine of not less than twenty-five dollars, nor more than fifty dollars, for the first offense. For any subsequent offense the fine shall be not less than fifty dollars nor more than one hundred dollars. In default of payment of a fine and costs, the defendant shall be sentenced to imprisonment in the prison of the county where such offense was committed for not less than ten days and not more than thirty days. All fines shall be paid by the alderman, magistrate, or justice of the peace to the board and by it paid into the State treasury.

Sec. 28. If any person shall fail to display or exhibit on the screen the approval seal, as issued by the board, of a film, reel, or view which has been approved, and is convicted summarily before any alderman, magistrate, or justice of the peace, he shall be sentenced to pay a fine of not less than five dollars and not more than ten dollars; in default of payment of a fine and costs, the defendant shall be sentenced to imprisonment in the prison of the county where such offense was committed for not less than two days and not more than five days.

#### LIMITATION OF SCOPE OF ACT.

Sec. 29. This act does not apply to any exhibition of or use of films, reels, or views for purely educational, charitable, fraternal, or religious purposes, by any religious association, fraternal society, library, museum, public school, or private school, institution of learning, or by any corporation of the first class.

Sec. 30. The several sections and provisions of this act are hereby declared to be independent of each other; and it is the legislative intent that if any of said sections or provisions are declared to be unconstitutional, such section or provision shall not affect any other portion of this act.

#### REPEAL.

Sec. 31. The act approved the nineteenth day of June, one thousand nine hundred and eleven, entitled "An act regulating the exhibiting or using of moving-pictures and stereopticon views, providing for and regulating the examination and approval of moving-picture films or reels and stereopticon views, and fixing penalties for the violation of this act," and all other acts or parts of acts inconsistent herewith, are hereby repealed.

Approved the 15th day of May, A. D. 1915.

MARTIN G. BRUMBAUGH.

The foregoing is a true and correct copy of the act of the general assembly No. 239.

CYRUS E. WOODS,  
Secretary of the Commonwealth.

#### PROPOSED AMENDMENT TO THE CRIMINAL CODE OF THE UNITED STATES.

Sec. 245. Whoever shall bring or cause to be brought into the United States or any place subject to the jurisdiction thereof from any foreign country, or shall therein knowingly deposit or cause to be deposited with any express company or other common carrier, for carriage from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, to any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States through a foreign country to any place in or subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States to a foreign country any obscene, lewd, or lascivious, or any filthy book, pamphlet, picture (motion-picture film), paper, letter, writing, print, or other matter of indecent character, or any drug, medicine, article, or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use, or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of the hereinbefore-mentioned articles, matters, or things may be obtained or made; or whoever shall knowingly take or cause to be taken from such express company or other common carrier any matter or thing the depositing of which for carriage is herein made unlawful, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

#### BRIEF OF PAUL H. CROMELIN, OF COSMOFOTOFILM CO., 110 WEST FORTIETH STREET, NEW YORK CITY.

To the COMMITTEE ON EDUCATION,  
House of Representatives, Washington, D. C.

GENTLEMEN: I had the honor of recently appearing before you in opposition to H. H. 453, a bill, introduced by Mr. Hughes, creating a Federal censorship board.

While opposed broadly to all forms of legalized censorship of motion pictures—meaning thereby opposition to any scheme requiring a person who has made a motion picture to submit it, before publication, to a board of censors created by law which shall be empowered to decide whether or not it is a picture fit to be exhibited or to be circulated in interstate commerce—I directed my remarks more particularly to section 9 which makes it impossible to copyright any film which has not been previously censored and bears the seal and certificate of the board of censors. I pointed out the effect such a clause would have on a business such as I conduct, namely, the importation of

motion-picture feature films, and called attention to the method provided in our copyright act for copyrighting motion pictures, the necessity for copyright prior to publication abroad or simultaneously thereto, and referred to the effect this clause would have in respect to treaties made with various countries and if bearing on our Pan American convention having to do with literary and artistic copyright signed in Buenos Aires, August 11, 1910.

Since that time Mr. Barber has appeared in favor of the bill and has attempted to dissuade the statement which I made and to make it appear that the matters which I brought to your notice were of but slight importance. He has said that the United States was not a member of the Berne Convention and is, therefore, not bound by anything the nations comprising that union may do.

I did not say to your honorable committee that the United States was a member of the Berne Convention. What I did say was that the whole tendency of the times, including the action taken by those great nations which comprise the Berne Convention, was to do away with all formalities in the bestowal of copyright property on those entitled to it; and that in most of these countries, including Great Britain since the British copyright act of 1911, there was absolutely no formality in the matter of securing copyrights; and that the United States had established reciprocal relations with many of these great nations, including Great Britain, by the terms of which our people were given all of the rights granted British citizens without registration or other formality. In return for which we had guaranteed to British citizens and citizens of other countries with whom we have set up these reciprocal relations that they would be entitled to all the protection of our law. And that if we passed this censorship bill, the effect of which in so far as the copyright of motion pictures is concerned would be to destroy and make valueless the rights these foreign citizens now enjoy, we could only do so by violating the spirit of our treaties and bringing down upon ourselves such reprisals as their Governments may consider just and proper.

Presidential proclamations have been issued by the President granting the benefit of our existing copyright law to citizens of Belgium, France, Great Britain, Germany, Italy, Denmark, Portugal, Spain, Mexico, Chile, Costa Rica, Netherlands and Possessions, Cuba, China, Norway, Japan, Korea, Austria, Luxemburg, Sweden, Tunis, and Hungary.

In addition the President has from time to time proclaimed existing reciprocal rights arising out of international conventions. One of these is the Pan American Convention, I have already referred to.

In my statement I have brought to your notice article 3 of that convention, which confers upon the owner of any copyright lawfully obtained in any of the contracting States full rights in all other States without the necessity of complying with any other formality, provided there appears in the work a statement indicating the reservation of the property right. I have said that you can not include clause 9 in your censorship bill without violating that convention.

To refute this Mr Barber quoted article 15, which reads:

"Each of the governments of the signatory countries shall retain the right to permit, inspect, or prohibit, the circulation, representation, or exhibition of works or productions concerning which the proper authority may have to exercise that right."

I submit, gentlemen, that in so far as the United States is concerned this is merely the retention by the proper authority of its ordinary police powers or such power as is now conferred on the United States by the Federal Statutes relating to the transportation of indecent or obscene matter; that it has nothing whatever to do with the matter of granting a copyright; that the copyright operates automatically in favor, for example, of a citizen of Panama who takes a motion picture in the Panama Republic, on compliance with whatever formality may be required in Panama, without any further formality being complied with in the United States. And if you required such a citizen of Panama to go through the further formalities this act proposes you would violate both the letter and spirit of that convention.

Mr. Barber further substantially stated that, after all, this convention only had to do with the Dominican Republic, Guatemala, Honduras, Panama, Nicaragua, and Ecuador. These are the only countries besides the United States which have formally ratified the convention to date. He failed to state to you, however, that the treaty, in addition to being with these States, is with the Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba, Haiti, Mexico,

Paraguay, Peru, Salvador, Uruguay, and Venezuela, and that its ratification was advised by the Senate February, 1911, and that it was ratified by the President March 12, 1911; and that as against the United States it is binding the moment any of these other States formally ratify; and that the subject is now having serious consideration by all of these Pan-American Governments. The gentleman said, further, that, so far as he was concerned, he would be perfectly willing to omit the clause referring to copyright.

Permit me to point out that the alleged overwhelming demand for this legislation is represented in the first hearing before your honorable committee in the Sixty-third Congress, second session, March 20, 1914, by three individuals. Rev. W. F. Crafts; his assistant, Rev. H. N. Pringle; and Rev. W. S. Chase. In the second hearings, May 8, 12, 13, and 14, 1914, by Rev. W. F. Crafts, who made an additional statement, and Rev. W. S. Chase, who also made an additional statement. Three men, religious agitators, pretend to represent the overwhelming demand of the people of the United States. Since that time, as has been made plain to your committee, these gentlemen have been conducting a national propaganda, creating sentiment in favor of this proposed legislation, and as the result of their agitation they would make it appear that there is a real demand for the passage of such a bill.

That there is any honest demand for it throughout the country is denied and I submit that it must be plain to your committee from the evidence before you that many of those persons and estimable organizations of ladies who have been made to seem in favor of it are not familiar with its true meaning and the effect of the creation of a Federal censorship board. And further they are unconsciously made to appear to favor this bill when in reality they are merely giving expression to a desire for some plan to further regulate motion-picture shows and especially to further control the matter of admission of children to such places and are not thereby committed to any plan such as this bill proposes requiring submission of every picture made intended to circulate in interstate commerce, no matter how innocent it is or what its subject matter may be, to a Federal commission who will sit in judgment upon it and whose conscience must be accepted as the conscience of the whole people of the United States.

Rev. Mr. Crafts, who is the originator of the bill, in speaking before your committee Friday evening, January 13, 1916, after Mr. Barber had finished, said, substantially:

"The copyright clause is not one of our pets. We are perfectly prepared to give up these clauses if desired."

This same Rev. Mr. Crafts, in his opening statement, page 5, printed report of the proceedings, Friday, March 30, 1914, says:

"Another very interesting precedent—for I am talking more particularly about precedents at the beginning of this hearing—is in regard to the copyrights."

"I think the most valuable feature in this whole matter is that the films will get no copyright unless they have passed this board and received a license."

I bring this to your notice to point out the inconsistency of Mr. Crafts's position. At the previous hearings he volunteers the statement that he thinks the fact that copyright will not be granted unless the picture has previously received the certificate and seal of the censors is "the most valuable feature in this whole matter." Now he says:

"This copyright clause is not one of our pets. We are perfectly prepared to give up these clauses if desired."

As the originators of the bill and those who are urging its passage are willing to have the clause relating to copyrights stricken out, I respectfully urge your honorable committee to eliminate this objectionable clause for the reasons indicated.

It is no part of the administrative duty of the copyright office to read every book, paper, or pamphlet submitted for copyright. The copyright is issued as the applications are made.

Likewise in the case of a motion picture, if the applicant has complied with the provisions of the copyright act and filed his description and clippings from the picture before publication the copyright office should grant the copyright. It is not supposed to, nor would it be practicable for it to see on the screen all motion pictures for which copyright may be applied. Its duty is to register the copyright if the provisions of the copyright act have been complied with. If it should happen that it was found later there was something in the picture obscene or indecent, the proper authorities in the States or cities where it is

shown would be called upon to act or its transmission from State to State in interstate commerce might be prohibited. The copyright, however, would still exist. Meanwhile, the persons who owned the copyright might eliminate all the objectionable matter, and with these parts eliminated the picture might be perfectly proper. The copyright owner still retains his exclusive rights granted by our laws.

If this bill is passed containing the copyright clause (sec. 9), the picture in such a case is to be denied a copyright. Ninety-nine per cent of it might be above criticism and may have cost a fortune to make. It may possibly be a masterpiece, the life's work of its author, from which he might reasonably expect to derive a suitable reward and financial return for himself and those depending on him during the years he is given the exclusive right to the labor of his brain as was intended when we framed our original copyright laws based upon the provision in the Constitution of the United States. It is to be denied a copyright because 1 per cent, for example, may be objectionable to the commission of five censors. As a matter of fact, these five may be divided in their opinions regarding this supposed objectionable matter, and a bare majority by their arbitrary action may in the first place destroy the artistic value of the picture and reach a decision from which a great majority of their fellow citizens, if they had the opportunity, might differ; the picture in every other country in the world except the United States might be unobjectionable. Meanwhile, they have worked a grievous wrong and irreparable injury, for by their action resulting in the copyright being refused they have thrown the subject matter open to the public. Anyone in the United States could publish or copy it (eliminating naturally the portion objected to), and its author or the person entitled to the exclusive protection granted by our copyright law would be powerless to prevent it; and in addition to the destruction of his original work from an artistic standpoint he might be faced with financial ruin by the appropriation by others of an original work the benefit to which he alone should be entitled.

For all of which reasons your honorable committee is urged to remove all reference to copyright from the bill.

Respectfully submitted.

COSMOFOTOFILM Co.,  
110 West Fortieth Street, New York City.  
PAUL H. CROMELIN.

JANUARY 21, 1916.

#### BRIEF FOR FEDERAL CENSORSHIP OF FILMS.

[By Dr. Wilbur F. Crafts, of Washington, D. C., superintendent of the International Reform Bureau.]

On this last day for filing briefs for and against the Smith-Hughes bill to provide for the establishment of a Federal motion-picture commission, the situation is radically different from what it was two weeks ago when the hearings began, because a whole group of the better class of producers have joined the churches and welfare societies in asking for Federal censorship, and have cooperated in making the bill more workable without asking the cancellation of any essential provision.

The issues are now clear-cut: First, whether the public and the decent motion-picture producers and exhibitors shall be protected against the "fly-by-night" films that teach crime and promote vice, and yet, when allowed, draw patronage from the better producers and exhibitors to such an extent that it is declared by high-grade producers that they must lower their standard, or be protected against low producers, or lose their trade; second, whether this protection of public and producer would be provided adequately by the enactment of the new Towner bill (H. R. 9521), which amends an old statute by adding "obscene motion-picture films" to the list of obscene matter which may not be legally transported in interstate and foreign commerce, the offense to be punished after the obscene films have been exhibited; third, whether, if "prepubescence

censorship" is desirable to prevent contamination, this censorship can be fully provided through the enlargement of such forms of censorship as already exist—voluntary, municipal, and State censorships—without adding Federal censorship.

Those of us who are promoters of the revised Hughes bill favor the Towner bill also, not as a substitute for the former, but to supplement it—the Hughes bill for "prevention," the Towner bill for "cure" whenever prevention fails to meet the needs of the case. The Hughes bill deals only with owners and lessees of films, a small group of about 50 substantial companies, while the Towner bill would apply to 22,000 exhibitors, a fact which seems to justify the charge that those producers who, through their attorneys, are asking for the Towner bill rather than the Hughes bill are trying to unload all the "trouble" on the exhibitors. Those who favor the Towner bill as a substitute for the Hughes bill urge it as a substitute for all official censorships—State censorship such as is now in force in Pennsylvania, Ohio, and Kansas, and municipal censorships, such as that of Chicago. The very existence of these numerous censorships, and the widespread agitation for more official censorship, municipal, State, and Federal, indicates plainly that the American people have determined to protect the young and old against public exhibitions of insulting and corrupting films by some censorship that is not dependent for financial support upon the film interests and has power to enforce its decrees against all films.

The one question, therefore, that confronts us at this time is, Shall we depend on developing official State censorship in all the States and municipal censorship in every town and city not protected by State censors; or shall we, inasmuch as even more than the railroads the motion-picture business is an interstate business—practically all of the pictures going everywhere—ask the Federal Government to regulate this "fifth greatest industry" of the United States by just such a judicial commission of strong men as the Interstate Commerce Commission, which the majority of the railroads that now welcome its impartial umpiring originally opposed with the same arguments that the film producers and exhibitors have just been making against this new interstate-commerce commission for another interstate business. If this proposed motion-picture commission is established, the States and cities may supplement its work so far and so long as it may be necessary; but as a film is an exact mechanical product and goes everywhere, there seems to be no reason why the people, who maintain the three forms of government—municipal, State, and Federal—should do anything 48 times over in the States or a thousand times over in the cities that their Federal Government can do once for all more thoroughly and more efficiently. No city or State can afford to put sufficient money into this difficult task to secure enough high-grade experts to censor the films and enough of enforcement officers into the field to insure that their decrees are obeyed. Instead of two or three men at \$1,500 a year each, the Federal censors would be of the grade of a Federal district court, with five persons—"at least one a woman"—at salaries of \$7,500 each, save the chairman, who would have \$8,000. That will put at the command of the President and Senate for these positions great psychologists who know and can still further trace the effect of a photograph on young and old, and other men supremely fitted for the task.



These five commissioners will be the supreme court of censorship, and will doubtless see films as a full bench, mostly on appeals, while deputies, some at a suboffice in New York, some at Los Angeles, and some at other points, aided by an unlimited number of "advisory commissioners," will "promptly license," as the law requires, all motion-picture films, with a few very specific exceptions that should not alarm any decent producer or honorable exhibitor. The only films the censors have authority or even permission to reject are "those that reproduce an actual bull fight or prize fight or are obscene" (and the courts define that word very practically), "indecent, immoral, inhuman, or are of such a character that its exhibition would tend to impair health or corrupt morals or incite to crime." If any film is rejected, the commission must clearly set forth what part or parts are objected to and why, and the film may be presented again for license if these parts are removed. Films not objected to by any of the deputies and advisory censors who first see it may be licensed by them at once—this provides for quick release of news films, for example—but a license can not be refused until the film has been viewed by at least one commissioner; and when a license is once granted it can not be recalled except by affirmative vote of at least three commissioners. Scenarios may be licensed before any money has been put into filming them, with proviso for recall of the license if the film does not turn out as clean as commissioners were led to expect.

All unlicensed films are excluded from interstate and foreign commerce except (1) films consigned to the commission for examination, (2) producers' films making an unbroken journey in process of manufacture, and (3) films exhibited in the United States before this act goes into effect, which last must be listed with full description, and the commission may call in any of them for rejection or license on complaint of a civil official or the officer of a civic organization or the owner or lessee may bring a film voluntarily to the commission to be examined because he desires the indorsement which a license would give.

For the convenient administration and enforcement of the law it is provided (1) that the title part of every film shall show the serial number of the application which is filed before the film is produced, and would show "A-2," for example, on the screen for application No. 2, and the title must also show some perforated symbol, stamped or cut into the finished screen or attached—for example, a crescent—to show the film had subsequently been licensed; another symbol if it was exempted; (2) copies of the license containing detailed description of the film must go with it from place to place, open to public inspection, and copies of licenses are to be supplied to all assistants of the commission, also full descriptions of exempted films that had been exhibited before this act took effect; (3) a durable and distinctive tag or label is to be attached to the tin container of every licensed film, and another kind of tag or label marks exempted films. The law has to deal only with the small group of owners and lessees of films, as I have said, and holds them responsible, with no punishments for carriers or exhibitors, who are sufficiently provided for in other laws.

The prohibitions of the act take effect three months after its approval, allowing time for the trade to adjust its plans and for the

commission to make rules and plans for its difficult but important task.

#### NO RESEMBLANCE TO PRESS CENSORSHIP.

It should be said right here that there is in film censorship no resemblance to the Old World press censorship that all Americans condemn. The Supreme Court says so in validating censorship laws in the Ohio and Kansas cases, and those who now compare film shows with a free press to create prejudice against their legal regulation are constructively if not technically "in contempt of court." Every legal objection to this bill has been swept away by three recent Supreme Court decisions, the third one validating the beneficent and effective Federal law that barred out the prize fight films from Habana.

The plea that if Federal censorship is applied to films, it should be applied to dramas, breaks down at several points. Dramas travel in memories of actors, not in commercial cans, and vary as rendered by different actors and in different places. Theaters need censorship, but it should be local censorship connected up with some bureau of information and warning. The film cans are as much an interstate matter as the cans of beef to which the Federal Government wisely applies "prepublicity censorship."

The Hughes bill is unquestionably one of the most important measures before Congress, and one in which more spontaneous expression of public sentiment is now being made to Congressmen and Senators than any other.

The most important part of national "preparedness" is to guard our youth, our future citizens, against the vicious influences that weaken body and mind, so that we may conserve "the man behind the gun." Even pending prohibition is not more important than furnishing a wholesome substitute for the rapidly diminishing saloons in censored motion picture halls, whose patronage we believe will be not less but far more than that of the photoplays of to-day, which thousands have ceased to attend because never safe against insult by some foul scene. Federal censorship would no doubt bring back this great host, and add new patrons, while the old patrons, when bad shows were cut out, would divide their patronage among those of better grade.

(The following is submitted by Dr. Crafts:)

Revised edition of Smith-Hughes bill (S. 2204, H. R. 456) for the regulation of motion pictures in interstate and foreign commerce, embodying changes suggested by Messrs. Hodgkinson, Myers, Lasky, Friend, and others in motion-picture business, and Crafts, Chase, Barber, and other welfare workers.

A BILL To create a new division of the Bureau of Education, to be known as the Federal motion-picture commission, for the regulation of motion pictures intended for interstate and foreign commerce, and defining its powers and duties.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission, to be known as the Federal Motion Picture Commission, be, and the same is hereby, created, to be composed of five commissioners appointed by the President with the consent of the Senate. One of the commission shall be designated as chairman. At least one member of the commission shall be a woman. The commission shall be a division of the Bureau of Education in the Department of the Interior. The

commission shall maintain a suboffice in New York City and another in Los Angeles, California, and may establish other suboffices at its discretion.

Sec. 2. That each commissioner shall hold office for six years, except that when the commission is first constituted two commissioners shall be appointed for two years, two for four years, and one for six years. Each commissioner shall thereafter be appointed for a full term of six years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The salary of the chairman shall be \$8,000 a year and of each other commissioner \$7,500 a year.

Sec. 3. That the commission may appoint deputy commissioners and other assistants and fix the compensation of each. Actual and necessary traveling expenses shall be allowed to those who travel on the business of the commission. The commission shall have power to make rules and regulations and exercise functions necessary to the efficient performance of its duties, and to secure obedience to the provisions of this act, and shall be provided with necessary office furniture, stationery, supplies, projecting machines, and appliances for inspection of films: *Provided, however*, That the entire cost of the commission, including salaries and all other expenses, shall not exceed \$80,000 a year.

Sec. 4. That the commission may appoint advisory commissioners to advise and assist in the examination and licensing of motion-picture films, who shall hold office during the pleasure of the commission and serve without compensation. No person shall be appointed an advisory commissioner who, directly or indirectly, has any pecuniary interest in the exhibition of motion pictures, or in any film exchange or firm or corporation engaged in manufacturing motion-picture films.

Sec. 5. That the commission shall promptly license every motion-picture film submitted to it and intended for entrance into interstate or foreign commerce, unless such film or some part thereof is obscene, indecent, immoral, inhuman, or is a reproduction of an actual bull fight or prize fight, or is of such character that its exhibition would tend to impair health or corrupt morals or incite to crime. If the commission shall not license any film for any of the reasons set forth, it shall furnish to the applicant a written report clearly setting forth the reasons for its rejection, and the part or parts of the film objected to, and may grant a license conditioned upon the elimination of such part or parts. The commission may require that condemned films or condemned parts of films shall be left in the custody of the commission, with all copies and negatives and other originals. The commission may, at any time, by unanimous vote, on such conditions as it deems proper, license a film after examination of its scenario only. Such license shall be revocable only on five days' notice to the licensee and by the affirmative vote of at least three commissioners. By like vote and on like notice the commission may revoke any license issued for cause shown. Any film rejected may, after revision, be resubmitted to the commission. Films and scenarios may be submitted not only at the main office of the commission but also at suboffices, and the commission may delegate to deputies and advisory commissioners in suboffices full power to issue licenses, subject to appeal to the commission by any deputy or by the licensee of the film: *Provided*, That no film shall be refused a license except after it has been inspected by at least one member of the commission, and no film, after appeal, shall be finally refused or granted a license except by affirmative vote of at least three members of the commission. Appeal from decisions of the commission may be had to any Federal court, but only on the ground that the commission has exceeded or abused the powers conferred by this act.

Sec. 6. Any person desiring a license, as in this act provided, shall submit a sworn application, in the form prescribed by the commission. Said application shall be given a serial number which shall be a permanent part of the title in the film and in every copy thereof.

Sec. 7. That when any motion-picture film or scenario has been approved the commission shall issue a license to the applicant to transport the film in interstate and foreign commerce. The license shall be in the form prescribed by the commission and shall give the serial number of the application, the title, the date of the license, the number of linear feet, and a full description of the film. Copies of the license shall be provided to accompany the film and every duplicate and shall be sent to deputies and advisory commissioners, who shall also be supplied with a list of the films rejected and a list, hereinafter provided for, of films in circulation before this law went into effect. The license accompanying the film shall be open to the inspection of any municipal official or any officer of a civic organization. The title part of any licensed film shall

contain some mark or symbol, determined by the commission, which shall be plainly visible to those viewing its exhibition, and some distinctive and durable tag prescribed by the commission shall be firmly attached to the container in which the film is habitually transported.

Sec. 8. That no person, firm, or corporation shall carry or transport, or cause to be carried or transported, any motion-picture film, developed or undeveloped, from or into any State, Territory, or possession of the United States unless such film has been licensed by the commission or has been exempted in accordance with the provisions of this act: *Provided*, That this section shall not apply to films consigned to this commission, nor shall this section be construed as prohibiting the carriage or transportation by or for the producer himself in one continuous journey of his own undeveloped film for purposes of manufacture: *And provided*, that the owners and lessees of motion-picture films which shall have been exhibited in the United States prior to the approval of this act shall not be required to secure interstate license for said films, but each shall furnish the commission a list of all his motion-picture films that are in circulation in interstate and foreign commerce, with a full description of each, which shall be published for information of the commission and its assistants; and the commission may require that all such excepted films passing in interstate and foreign commerce shall bear some designated mark or symbol in the title part of the film and some durable tag on the container, differing from the tag for licensed films, by which the agents of the commission may recognize them as entitled to the exemption herein granted: *And provided*, That any film, old or new, transported in interstate or foreign commerce, or a copy thereof, shall be submitted to the commission for inspection if the commission, on complaint of any civil official or of any officer of a civic society, shall so require; and any film so inspected shall be licensed or excluded from interstate and foreign commerce upon the same terms as films produced after this act takes effect: *And provided*, That any exempted motion-picture film may also be inspected for license on request of the owner or lessee. The fact that any film is in any State other than the one in which it was produced without a license or certificate of exemption and the required mark and tag shall be prima facie evidence that it has been transported in interstate commerce in violation of this act.

Sec. 9. That no motion-picture film which has not been licensed or exempted by the commission shall be exhibited in any place of amusement for pay or in connection with any business in the District of Columbia, or in any Territory of the United States, or in any other place under complete jurisdiction of the Federal Government.

Sec. 10. That a fee of \$1 shall be charged for each thousand feet of film or fractional part thereof licensed and 50 cents for each equal measure of duplicate films. Any change or alteration in any film after license, except the elimination of a part, shall be a violation of this act and shall also void the license.

Sec. 11. That the commission shall annually, on or before the first day of December of each year, submit a written report to the United States Commissioner of Education. In this report, and from time to time by other means, the commission may recommend films particularly suitable for children and make suggestions regarding recreational and educational uses of motion pictures.

Sec. 12. That each violation of this act shall be punished by a fine of not more than \$500, or by imprisonment for not more than one year, or both, and the films or parts of films unlawfully transported, exhibited, or changed shall be surrendered to the custody of the commission and may be destroyed.

Sec. 13. That fees received by the commission shall be paid monthly into the Treasury of the United States.

Sec. 14. That upon the expiration of six months from the date of the approval of this act, and from time to time thereafter as circumstances warrant, the commission shall reduce the license fee to such a sum as will produce no larger income than is necessary to pay the cost of the commission, including salaries and all other expenses.

Sec. 15. That if one or more sections of this act shall be declared unconstitutional it shall not void the other sections.

Sec. 16. That this act shall take effect immediately, except section 8, which shall take effect three months after the approval of this act by the President.



21501

**END OF  
TITLE**